

Exhibits 1 & 2

EXHIBIT 1
to First Amended Consent Decree
United States et al. v. Manville Sales Corp.
(N.D. Ill. Civ. Action No. 88C 630)

FIRST EXPLANATION OF SIGNIFICANT
DIFFERENCES

for the

JOHNS-MANVILLE SITE

WAUKEGAN, ILLINOIS



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

FEB - 9 1993]

REPLY TO THE ATTENTION OF:

DATE:

SUBJECT: Request for Concurrence on the Explanation of Significant Differences for the Remedial Action at the Johns-Manville Superfund Site, Waukegan, Illinois

FROM: William Muno, Acting Director
Waste Management Division
Gail C. Ginsberg, Regional Counsel
Office of Regional Counsel

TO: Valdas V. Adamkus
Regional Administrator

By this memorandum we are recommending that you authorize the change in the remedial action at the Johns-Manville site by executing the attached Explanation of Significant Differences (ESD).

This ESD was prepared in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq., the National Contingency Plan (40 CFR Part 300), and Agency Policy. We have reviewed the attached documents and have concluded that the ESD is both legally and technically sufficient. As such, we believe that the implementation of the remedial measure is a proper exercise of your delegated authority.

Please feel free to contact either one of us should you have any questions.

Concur

fm Valdas V. Adamkus
Regional Administrator

2/9/1993
Date

Not Concur

Valdas V. Adamkus
Regional Administrator

Date

EXPLANATION OF SIGNIFICANT DIFFERENCES
for the
JOHNS-MANVILLE SITE
WAUKEGAN, ILLINOIS

INTRODUCTION

The Johns-Manville Site, located in Waukegan, Illinois, (Johns-Manville Site or the Site) operated as an asbestos manufacturing facility from the 1920's through the early to mid-1980's. The disposal area covers approximately 130 acres of the approximately 300 acres of land owned by Schuller International, Inc.

(Schuller), formerly the Johns-Manville Sales Corporation. For purposes of this document, however, Manville will be referred to instead of Schuller because Manville held title to and operated the facility during the majority of the time that the Site underwent investigation and remediation. Wastes containing primarily asbestos, and to a lesser extent, lead, chrome, thiram, and xylene have been deposited at the site since about 1922. In the mid-1980's, asbestos use was discontinued in the manufacturing processes. The Johns-Manville site was listed on the National Priorities List, 40 C.F.R. Part 300 (NPL), in December 1982. A Remedial Investigation/Feasibility Study (RI/FS) was completed in 1987 with a Subsequent Record of Decision (ROD) executed in June 1987. Negotiations between the United States Environmental Protection Agency (U.S. EPA) and Manville resulted in a settlement for design and construction of the remedy as specified in the ROD.

The construction of the remedy was completed on August 21, 1991. However, conditions discovered during construction necessitated several changes to the original remedy outlined in the ROD, including the following: discontinuation of construction of dikes on the north side of the industrial canal that were a part of the remedy specified in the ROD; alteration of the cover requirements for dikes and dike roadways that were specified in the ROD; alteration of the thickness and composition requirements for side slopes and dry waste piles that were specified in the ROD; remediation of additional areas on-site not mentioned in the ROD that were later found to contain asbestos; remediation of the sludge disposal pit and the miscellaneous disposal pit not provided for in the ROD that were later found to contain asbestos; and paving of a former boat storage area and non-functioning railway corridor, not mentioned in the ROD, that were later found to contain asbestos. Additionally, deed restrictions are needed to protect the integrity of the remedy.

Therefore, pursuant to the Comprehensive Environmental Response, Compensation, Liability Act (CERCLA) Section 117(c) and Section 300.435(c)(2)(i) of the NCP, the U.S. EPA is publishing this Explanation of Significant Differences (ESD). As required by Section 300.825(a)(2) of the NCP, this ESD will become part of the Manville Administrative Record which is available for review at the Waukegan Public Library located at 28 North County Street, Waukegan, Illinois and in the U.S. EPA Records Center located at 77 W. Jackson Blvd, Chicago, Illinois.

The information used in U.S. EPA's assessment is currently available at the above repository.

SUMMARY OF SITE HISTORY, CONTAMINATION, AND SELECTED REMEDY

Manville's asbestos disposal pit was designed to receive friable asbestos wastes from the manufacturing processes, and the miscellaneous disposal pit and the sludge disposal pit were designed to receive non-asbestos-containing materials from the manufacturing processes and that had been dredged from the on-site wastewater treatment system. The on-site wastewater treatment system, that was permitted by the State of Illinois in 1973, consists of a series of unlined ponds and waterways where fibrous materials in the facility's wastewater were settled over time. Deposited materials were periodically dredged and transported to and deposited in the miscellaneous and sludge disposal pits. In addition, asbestos-containing and miscellaneous waste materials were deposited in large piles at the north, south, and most of the western boundaries of the Site.

Airborne asbestos monitoring was conducted at the site in 1973 and 1982 by the Illinois Institute of Technology Research Institute and the U.S. EPA Field Investigation Team, respectively. The 1973 study did not provide conclusive evidence of asbestos air contamination, and the 1982 study indicated that concentrations of asbestos fibers in the 2.5 to 15 micrometer range were elevated on-site and downwind of the site and concentrations of asbestos fibers less than 2.5 micrometers were elevated on-site.

The Manville Remedial Investigation indicated the need to prevent releases of asbestos and PM₁₀ (formerly Total Suspended Particulates) into the air. There was also a need for further air, ground water, and surface water monitoring at the site and a mechanism for remediation of any contaminants that are detected in concentrations that would present an endangerment to public health and the environment.

Different alternatives to address the site contamination problems were evaluated in the Manville Feasibility Study and after detailed analysis of the alternatives, a Proposed Plan was issued. After taking into consideration all public comments, the Regional Administrator signed a Record of Decision (ROD) on June 30, 1987. The remedy specified therein consisted of the following components:

- waste materials/soil in the inactive waste disposal areas of the site will be graded and covered with 24 inches of compacted non-asbestos-containing soil. The cover will consist of six inches of sand overlain by 12 inches of clay. Six inches of topsoil will be placed over the clay, and a vegetative cover will be grown and maintained.
- the asbestos disposal pit will be closed in June 1989 and provided with 24 inches of cover as described above.
- the miscellaneous disposal pit, sludge disposal pit, and wastewater treatment system will continue to operate; asbestos is no longer used in the manufacturing processes at the facility.
- any asbestos-containing material generated from reconstruction activities at the facility after June, 1989 will be disposed of off-site in an approved landfill.
- a soil cover monitoring program will be developed to ensure that no asbestos reaches the surface of the cover and becomes releasable to the air in the future.
- where feasible, one layer of nominal 12-inch thick riprap will be placed on the interior slopes of settling basins. Four-inch thick bedding material will be used to prevent erosion of soil beneath the riprap. All other exposed interior slopes will be provided with 24 inches of soil cover as described above.
- a contingency plan will be developed to ensure that no asbestos-containing sludge is dredged from the wastewater treatment system in the future.
- the north, west, and south slopes of the waste disposal area will be sloped with non-asbestos-containing soil to a ratio of two horizontal to one vertical and provided with 24 inches of soil cover with vegetation as previously described.
- a minimum of 24 inches of non-asbestos-containing soil will be placed on top of all dikes and dike roadways on-site. In addition, heavily used dike roadways will be provided with eight inches of compacted gravel, and lightly travelled dike roadways with four inches of compacted gravel.

- a ground water and surface water detection monitoring system will be established on-site to ensure that any contaminants that leach from the site are detected. The monitoring and reporting of results to U.S. EPA will continue for a minimum of 30 years. A contingency plan will be developed to ensure that appropriate remedial action will be taken if contaminant concentrations that would pose a threat to public health and the environment are detected.
- an air monitoring program will be established at the waste disposal area to determine the levels of asbestos, lead, TSP, and chromium in the air around the site. The monitoring and reporting of results to U.S. EPA will continue for a minimum of 15 years after the initiation of on-site construction activities for the remedial action. A contingency plan will be developed to ensure that appropriate remedial action will be taken if contaminant levels exceed the applicable air standards or health-based criteria.
- debris from the beach and southwest portion of the waste disposal area will be cleaned up.
- the eastern site boundary will be fenced to limit access.
- additional warning signs will be placed along the site perimeter.
- the small ditch connected to the south end of the east ditch will be closed.
- the active waste disposal areas (miscellaneous disposal pit, sludge disposal pit, and wastewater treatment system) will be sampled to verify Manville's claims that no asbestos has been deposited in the miscellaneous disposal pit, no asbestos-containing sludge is near the surface of the sludge disposal pit, and no hazardous wastes are entering the wastewater treatment system.
- the open area in the northeast corner of the miscellaneous disposal pit will be closed.
- peripheral ditches will be constructed to collect site run-off and channel it to the industrial canal.
- dikes will be constructed at the depressed area along the north side of the industrial canal to prevent industrial canal water from migrating off-site.

Negotiations between the U.S. EPA and Manville to design and construct the Site remedy resulted in a Consent Decree Settlement which was reached in December 1987. The State of Illinois was also a signatory to the Consent Decree, which was entered with the United States District Court for the Northern District of Illinois on March 18, 1988.

DESCRIPTION OF THE SIGNIFICANT DIFFERENCES AND THE BASIS FOR THOSE DIFFERENCES

Conditions discovered during the construction of the selected remedy necessitated six changes to the remedy outlined in the ROD, and deed restrictions are needed to ensure the integrity of the remedy. A description of these changes and the basis for these changes follows.

1. Remediation of Additional Areas

There were additional areas of the Site, not specified in the ROD, that were later identified as being contaminated with asbestos and, subsequently, were remediated. The first area was that surrounding the Industrial Canal, the Pumping Lagoon, and Eastern Site boundary. After trees near these areas were cleared during initial construction, waste products and materials resembling the sludge from the wastewater treatment system became visible. Representative samples collected in these areas in February 1990, revealed asbestos-containing material (ACM) located at or near the ground surface. Additional on-site sampling revealed that ACM was located at the ground surface of three additional areas--the borrow pit roadway, the boat storage area, and the non-functioning railway corridor. Manville submitted three additional work plans (the Second Work Plan Supplement, Second Work Plan Supplement-Amendment A and Third Work Plan Supplement) to address these additional areas of contamination. These additional work plans each contained a schedule for completion of remedial activities and were reviewed and approved by U.S. EPA and the Illinois Environmental Protection Agency (IEPA). Final remedial construction was completed on August 21, 1991.

The basis for remediating these additional areas was the same as that for remediating the areas originally designated in the ROD--to manage the risk to human health, safety, and the environment from friable asbestos. ACM was located at the ground surface and was, therefore, releasable to the air. All remediation of the additional areas was done consistent with the ROD - dry waste areas were covered with 24 inches of clean soil cover, with vegetation; areas at the edge of settling ponds/waterways were provided with one layer of nominal 12 inch thick riprap; and roadways were remediated consistent with the U.S. EPA-approved amended treatment requirements outlined below.

2. Dikes on the North Side of the Industrial Canal

The ROD specified that dikes will be constructed at the depressed area along the north side of the industrial canal. These dikes were not constructed. The basis for this difference is that the Illinois Department of Conservation (IDOC) expressed opposition to the construction of these dikes after the ROD was signed. The IDOC, which is responsible for administering the Illinois Beach State Park which borders the Manville facility on the north, stated that construction of the dikes would alter the existing water balance and could flood this area of the Illinois Beach State Park. This flooding could harm some endangered plant species located in the area. Since the initial reason for constructing the dikes was to prevent potential harm to the Illinois Beach State Park, U.S. EPA dropped this work provision from the selected remedy.

3. Roadway Thickness

The ROD required placement of a minimum of 24 inches of non-asbestos-containing soil on top of all dikes and dike roadways on-site and an additional eight inches of compacted gravel on heavily used dike roadways (Class I) and four inches of compacted gravel on lightly traveled dike roadways (Class II). What was actually constructed was a minimum 12-inch thick non-asbestos-containing sand layer overlain by a 12-inch thick compacted gravel layer on heavily traveled dike roadways (12/12 system), and a minimum 14-inch thick sand layer overlain by a 10-inch thick compacted gravel layer on lightly traveled dike roadways (14/10 system). The basis for this difference is that the newly devised cover systems require less material than those specified in the ROD, but provide full cover thickness and protection from freeze/thaw up migration equivalent to that provided by the 24-inch soil cover specified in the ROD.

4. Sludge Disposal Pit and Miscellaneous Disposal Pit

Remediation of the Miscellaneous Disposal Pit (MDP) and the Sludge Disposal Pit (SDP), although not specified in the ROD, was later required as part of the remedy. The ROD states that the MDP and SDP will be sampled to verify Manville's claims that no asbestos has been deposited in the MDP and no asbestos-containing sludge is near the surface of the SDP. The ROD is silent on what to do if asbestos is found in these pits. Sampling results did indicate the presence of asbestos at and near the surface of the MDP and SDP. Therefore, U.S. EPA required Manville to cover these pits with 24 inches of soil cover, consistent with the

the requirement for all dry waste areas. Manville decided to close the SDP, so the SDP was provided with a vegetative cover. Since the MDP is still active, it was not provided with a vegetative cover, but the asbestos-containing layer has since been covered over with non-asbestos-containing plant wastes. The basis for this difference from the ROD is simply that the ROD did not specify what to do if ACM was found at the surface of the MDP and SDP; therefore, action consistent with the rest of the ROD was taken once asbestos was discovered.

5. Cover Composition for Side Slopes and Dry Waste Piles

The composition and thickness of the cover requirements for side slopes and dry waste piles were changed from the criteria stated in the ROD. The ROD required that dry waste areas with slopes greater than 20% receive a 24-inch cover that consisted of a bottom six-inch sand layer overlain by 12 inches of clay and six inches of topsoil. New cover requirements were selected because the original cover as specified in the ROD may not have been stable at slopes greater than 20%, and could have lead to sloughing. The 26-inch clay/topsoil cover was analyzed and found to be equivalent to the 24-inch sand/clay/topsoil cover in terms of protection from freeze/thaw up migration.

Additionally, the ROD stated that dry waste areas were to be provided with a 24-inch soil cover, consisting of six inches of sand overlain by 12 inches of clay and six inches of topsoil. What was constructed was a 24-inch cover consisting of six inches of sand overlain by 15 inches of clay and three inches of topsoil. U.S. EPA allowed this change because the new cover requirements were found to be as protective as the original requirements, and the new requirement for three inches of topsoil would be adequate in promoting vegetative growth.

6. Paving

Remediation by paving, although not specified in the ROD, was later required as part of the remedy. During construction, asbestos was found at and near the ground surface of a former boat storage lot that was located on the southwestern edge of the Site, and near the non-functioning railway corridor. These areas were covered with a minimum six inch compacted gravel layer overlain by a minimum two-inch thick bituminous pavement cover. This cover was considered to provide equivalent protection to the 24-inch soil cover with vegetation and allowed future use of the area by potential tenants. Due to the decreased thickness (eight inches) of this cover, rigorous operation

and maintenance requirements were adopted to ensure the integrity of the bituminous pavement.

7. Deed Restrictions

No provisions for deed restrictions were included in the ROD. Deed restrictions are necessary to prevent interference with the operation and long-term maintenance of the remedy for the Site. Deed restrictions will ensure the integrity of the constructed remedy and are, hereby, required under this ESD.

SUPPORT AGENCY COMMENTS

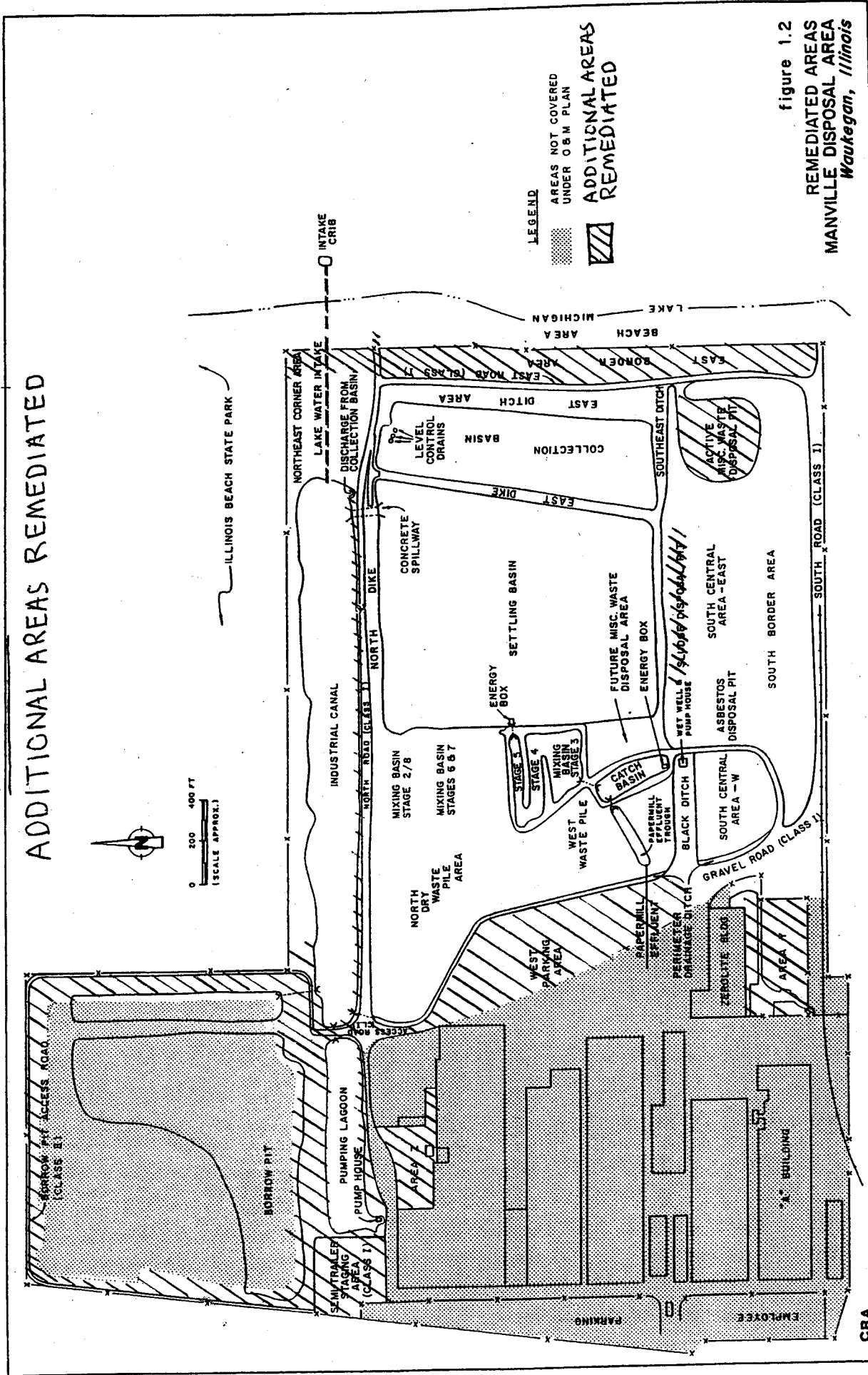
The State of Illinois concurs with this ESD.

AFFIRMATION OF THE STATUTORY DETERMINATIONS

Based upon information discovered during remedial construction and the need for deed restrictions, changes have been made to the remedy selected in the ROD. The U.S. EPA and IEPA believe that the remedy not only remains protective of human health and the environment, but is and has been enhanced by remediating additional areas of the site and preserving the integrity of the remedy. The changes comply with federal and state requirements that were identified in the ROD as applicable or relevant and appropriate to this remedial action. The revised remedy utilizes permanent solutions and alternate treatment technologies to the maximum extent practicable for the Manville Site and is cost effective.

FIGURE

ADDITIONAL AREAS REMEDIATED



JOHNS - MANVILLE
UPDATE - ADMINISTRATIVE RECORD

PAGES	DATE	TITLE	AUTHOR	RECIPIENT
100+	3/18/88	Remedial Action Consent Decree	EPA/Manville	N/A
27	4/21/88	Remedial Work Plan Comment Letter	Brad Bradley U.S. EPA	Marvin Clumpus Manville
3	10/18/88	Revised Amended Remedial Work Plan Comment Letter	Kurt Niebergall IEPA	Bradley
4	4/17/89	Correspondence	John Zackrisson Kirkland & Ellis	Larry Johnson U.S. EPA
18	4/27/89	Work Plan Supplement	Conestoga Rovers & Associates (CRA)	N/A
2	4/27/89	Correspondence	Richard Shepherd CRA	Bradley/Johnson
2	5/19/89	Work Plan Supplement Comment Letter	Neibergall	Bradley
21	3/26/90	Split Sample Results for 2/7/90 Sampling Event	CC Johnson and Malhotra	N/A
36	4/11/90	Cover Letter and Attachment Results for 2/7/90 Sampling Event	Bradley	Shepherd
4	7/2/90	Second Work Plan Supplement Comment Letter	Bradley	Shepherd
23+ Drawings	7/31/90	Second Work Plan Supplement (SWPS)	CRA	N/A
1	7/31/90	Transmittal Letter	Shepherd	Bradley
2	8/2/90	Letter - SWPS Changes	Shepherd	Bradley

PAGES	DATE	TITLE	AUTHOR	RECIPIENT
1	8/3/90	SWPS Approval Letter	Bradley	Shepherd
2	10/24/90	Letter - SWPS Modifications	Shepherd	Bradley
1	11/7/90	SWPS - Amendment A Comment Letter	Bradley	Shepherd
2 + Drawings	11/13/90	SWPS - Amendment A and Transmittal Letter	Shepherd	Bradley
1	11/27/90	SWPS - Amendment A Approval Letter	Bradley	Shepherd
2	12/28/90	Letter - SWPS - A Amendment Modifications	Shepherd	Bradley
1	6/6/91	Transmittal Letter	Shepherd	Bradley
2	6/20/91	Third Work Plan Supplement Comment Letter	Bradley	Shepherd
21	6/27/91	Third Work Plan Supplement (TWPS)	CRA	N/A
1	6/27/91	Transmittal Letter	Shepherd	Bradley
1	7/2/91	TWPS Approval Letter	Bradley	Shepherd
4	1/3/89	Letter - Proposed Consent Decree Modifications	Zackrisson	Johnson
1	7/22/91	Transmittal Letter	Shepherd	Bradley
100+	10/91	Operation and Maintenance (O&M) Manual	CRA	N/A
1	10/11/91	Transmittal Letter	Shepherd	Bradley
4	10/18/91	O & M Manual Comment Letter	Neibergall	Bradley

PAGES	DATE	TITLE	AUTHOR	RECIPIENT
3	11/15/91	Letter - O&M Manual Revisions	Shepherd	Bradley
2	12/2/91	As-Built Plans Comments Letter	Neibergall	Bradley
1	12/11/91	O & M Manual Approval Letter	Bradley	Shepherd
13	12/30/91	Johns-Manville Closeout Report	U.S. EPA	N/A
1	2/11/92	Letter re: Delisting	Bruce Ray, Manville	Cynthia Kawakami, U.S. EPA
1	2/12/92	Letter re: Corporate Name change	Dale Wheeler, Schuller	Bradley
9	2/18/92	Final Construction Report Comment Letter	Bradley	Shepherd
2	4/13/92	Transmittal letter	Shepherd	Bradley
2	7/7/92	Second Draft Final Construction Report Comment Letter	Bradley	Shepherd
2	9/28/92	Transmittal Letter	Shepherd	Bradley

EXHIBIT 2
to First Amended Consent Decree
United States et al. v. Manville Sales Corp.
(N.D. Ill. Civ. Action No. 88C 630)

SECOND EXPLANATION OF SIGNIFICANT

DIFFERENCES

for the

JOHNS-MANVILLE SITE

WAUKEGAN, ILLINOIS

INTRODUCTION

From the 1920's through the mid-1980's, Johns Manville International, Inc. (Johns Manville), operated a 300 acre property in Waukegan, Illinois, as an asbestos manufacturing and landfill facility. Johns Manville owned and still owns this facility property. The formal disposal area at the facility property covers approximately 150 acres. The Johns-Manville Superfund Site consists of the majority of the facility property, plus three associated contaminated areas.

Johns Manville deposited wastes containing primarily asbestos and, to a lesser extent, lead, chrome, thiram and xylene, at the Site since about 1928. In the mid-1980's, Johns Manville stopped using asbestos in its manufacturing processes at the facility. Johns Manville discontinued all manufacturing activities at the facility in 1998. The United States Environmental Protection Agency (U.S. EPA) listed the Site on the National Priorities List, 40 C.F.R. Part 300 (NPL), in December 1982. Johns Manville completed a Remedial Investigation/Feasibility Study (RI/FS) in 1987 and U.S. EPA executed a Record of Decision (ROD) in June 1987. Negotiations between U.S. EPA and Johns Manville resulted in a settlement for design and construction of the remedy as specified in the ROD.

Johns Manville completed the construction of the remedy on August 21, 1991. However, conditions discovered during construction necessitated some changes and U.S. EPA allowed some other changes to the original remedy outlined in the ROD. A February 9, 1993, Explanation of Significant Differences (ESD) outlined these changes. Recently, the shutdown of Johns Manville's manufacturing facility in 1998 necessitated or allowed further changes in the remedy, which are the subject of this second ESD.

Therefore, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 117(c), 42 U.S.C. § 9617(c), and Section 300.435(c)(2)(I) of the National Contingency Plan (NCP), 40 C.F.R. § 300.435(c)(2)(I), U.S. EPA is publishing this second Explanation of Significant Differences. As required by Section 300.825(a)(2) of the NCP, 40 C.F.R. § 300.825(a)(2), this ESD will become part of the Johns-Manville Administrative Record which is available for review at the Waukegan Public Library located at 28 North County Street, Waukegan, Illinois and the U.S. EPA Records Center located at 77 West Jackson Boulevard, Chicago, Illinois. The information used in U.S. EPA's assessment is currently available at the cited repository.

SUMMARY OF SITE HISTORY, CONTAMINATION, AND SELECTED REMEDY

Within the on-site disposal area (see Figure 1), Johns Manville's asbestos disposal pit was designed to receive friable asbestos wastes from the manufacturing processes, while the miscellaneous disposal pit and the sludge disposal pit were designed to receive non-asbestos-

containing materials from the manufacturing processes that had been dredged from the on-Site wastewater treatment system. The on-Site wastewater treatment system, permitted by the State of Illinois in 1973, consists of a series of unlined ponds and waterways where fibrous materials in the facility's wastewater settled over time. Johns Manville periodically dredged these deposited materials, then transported them to and deposited them in the miscellaneous and sludge disposal pits. In addition, Johns Manville deposited asbestos-containing and miscellaneous waste materials in large piles at the northern, southern, and most of the western boundaries of the Site.

The 1987 Johns-Manville Remedial Investigation indicated the need to prevent releases of asbestos and particulate matter into the air. It also indicated a need for further air, ground water, and surface water monitoring at the site and a mechanism for remediation of any contaminants detected in concentrations that would present an endangerment to public health and the environment.

Johns Manville evaluated different alternatives to address the site contamination problems in the Feasibility Study and after detailed analysis of the alternatives, U.S. EPA issued a Proposed Plan detailing U.S. EPA's proposed remedy. After taking into consideration all public comments, the Regional Administrator signed a ROD on June 30, 1987. The remedy specified in the ROD included provisions for a soil cap for the waste disposal/landfill areas and included the following provision that is relevant to this ESD:

"The miscellaneous disposal pit, sludge disposal pit, and wastewater treatment system will continue to operate . . ."

The United States, the State of Illinois, and Johns Manville entered into a consent decree for the design and implementation of the selected remedy. The U.S. District Court for the Northern District of Illinois entered the consent decree in March 1988. Johns Manville started physical construction of the remedy in November 1988 and completed construction in August 1991. With the exception of the miscellaneous disposal pit, all dry waste piles were provided with a soil cover, with vegetation, as specified in the ROD. As previously mentioned, U.S. EPA documented changes to the ROD that it approved during remedy implementation, in the February 9, 1993, ESD.

Johns Manville shut down the facility in the summer of 1998; however, it has not closed the remaining areas of the wastewater treatment system. Johns Manville continues to pump storm water runoff into the wastewater treatment system to maintain a wet condition and prevent any airborne asbestos releases from the sides or bottoms of the ponds.

DESCRIPTION OF THE SIGNIFICANT DIFFERENCES

In this document, U.S. EPA is making the following additions to the ROD:

Closure of Remaining Wastewater Treatment Ponds and On-Site Landfill Areas.

The remaining wastewater treatment ponds at the Johns Manville Site currently include, without limitation, the paper mill ditch, catch basin, mixing basin stages 3, 4, and 5, settling basin, collection basin, industrial canal, and pumping lagoon (See Figure 1). All of the on-site landfill areas and the remaining wastewater treatment ponds, with the exception of the collection basin, industrial canal and pumping lagoon, must be closed. Due to the possibility that dredged materials from the Waukegan Harbor dredging project may be placed in the settling basin, the settling basin may only remain open until:

- January 1, 2004;
- such time as the dredging project is completed; or
- the settling basin is rejected as a disposal option, whichever occurs first.

Closure of the ponds, including the settling basin if the dredged materials from Waukegan Harbor are not placed there, must include (a) the cessation of pumping storm water runoff into the former wastewater treatment system; and (b) the placement and maintenance of a vegetated soil cover over the portions of the system leading to the settling basin, in accordance with the cover requirements in the 1987 ROD. If the dredged materials from Waukegan Harbor are placed in the settling basin, the closure requirements for the settling basin will be in accordance with the applicable permit requirements.

The sediments in the collection basin, industrial canal, and the pumping lagoon must be sampled for asbestos. Based on the results of this sampling, U.S. EPA will require further action, as appropriate. Such action may include, without limitation:

- no action (if no asbestos over 1% is found);
- pickup of visible debris in these waterways;
- development of a contingency plan to assess and implement remedial actions for a situation where the water level in any of these ponds drops to a point where any asbestos-containing materials become exposed to the air;
- dredging of all or a portion of these waterways; or
- a combination of these actions.

Additionally, action must be taken to ensure that the soil cover on the side slopes of the industrial canal, the pumping lagoon, and the borrow pit remains protected from erosion (e.g. the outlet pipe from the industrial canal to Lake Michigan could be kept open and free of debris to

stabilize the water level in these ponds). Some of the actions listed in this paragraph could be addressed through an addendum to the existing Operation and Maintenance Plan for the Site.

The on-site landfill areas (i.e. the miscellaneous disposal pit and the portion of the collection basin where waste materials were deposited- see Figure 1) must be closed in accordance with 35 Ill. Adm. Code Part 811.

THE BASIS FOR THIS ESD

The basis for these changes in the ROD are that pond closure is more cost-effective and has greater long-term effectiveness than continually pumping storm water runoff into the former wastewater treatment system. Additionally, keeping water in the settling basin, which has a water level approximately 15 feet higher than the water table, would continue to exert a pressure head on asbestos containing material in and around the settling basin, which would increase the potential for asbestos migration in the ground water. Since the facility is closed and no more waste materials are being generated, closure of the on-site landfill areas is required by law.

SUPPORT AGENCY COMMENTS

The State of Illinois does not concur with this Second ESD. The reason that the State is not concurring is that it feels that the current State landfill regulations, which have a three foot or six foot soil cover requirement, should apply to the closure of the wastewater treatment system ponds. This would be in lieu of the 24-inch-plus-vegetation requirements for soil cover in the 1987 ROD. In accordance with "A Guide to Preparing Superfund Proposed Plans, Records of Decision, and Other Remedy Selection Documents", OSWER Directive 9200.1-23P, July 30, 1999, U.S. EPA generally reopens the ARARs for a site only if (a) U.S. EPA issues a ROD Amendment for a site; or (b) for the issuance of an ESD, U.S. EPA adds a new remedy component. Neither is the case here. The changes outlined in this ESD do not rise to the level that would require a ROD Amendment since these changes are not fundamental changes to the remedy, and add no new remedy components to the ROD. The remedy remains, in all cases, soil cover with vegetation, as specified in the 1987 ROD. ↓

The State felt that U.S. EPA should pursue a ROD Amendment, to allow for the application of the new landfill regulations. The desire to apply more stringent regulations is not, in and of itself, a legitimate reason for pursuing a ROD Amendment. Further, the 1987 ROD's cover requirements are in full compliance with ARARs and are more stringent than analogous requirements for inactive asbestos waste disposal sites in the Clean Air Act's National Emission Standard for Asbestos, 40 C.F.R. Subpart M. For these reasons, U.S. EPA will proceed to execute this ESD. U.S. EPA feels that, for the Johns-Manville Site, the 24-inch soil cover, with vegetation, is, and remains, protective of human health and the environment.

AFFIRMATION OF THE STATUTORY DETERMINATIONS

Based upon changing Site conditions and upon the information provided by Johns Manville regarding its proposed demolition of facility buildings, U.S. EPA has changed the remedy selected in the ROD. U.S. EPA believes that the remedy remains protective of human health and the environment. The changes comply with federal and state requirements identified in the ROD as applicable or relevant and appropriate to this remedial action. The revised remedy uses permanent solutions and alternate treatment technologies to the maximum extent practicable for the Johns-Manville Site and is cost effective.

Concur

William E. Muno
Superfund Division Director

9-22-00

Date

Not Concur

William E. Muno
Superfund Division Director

Date

Figure 1

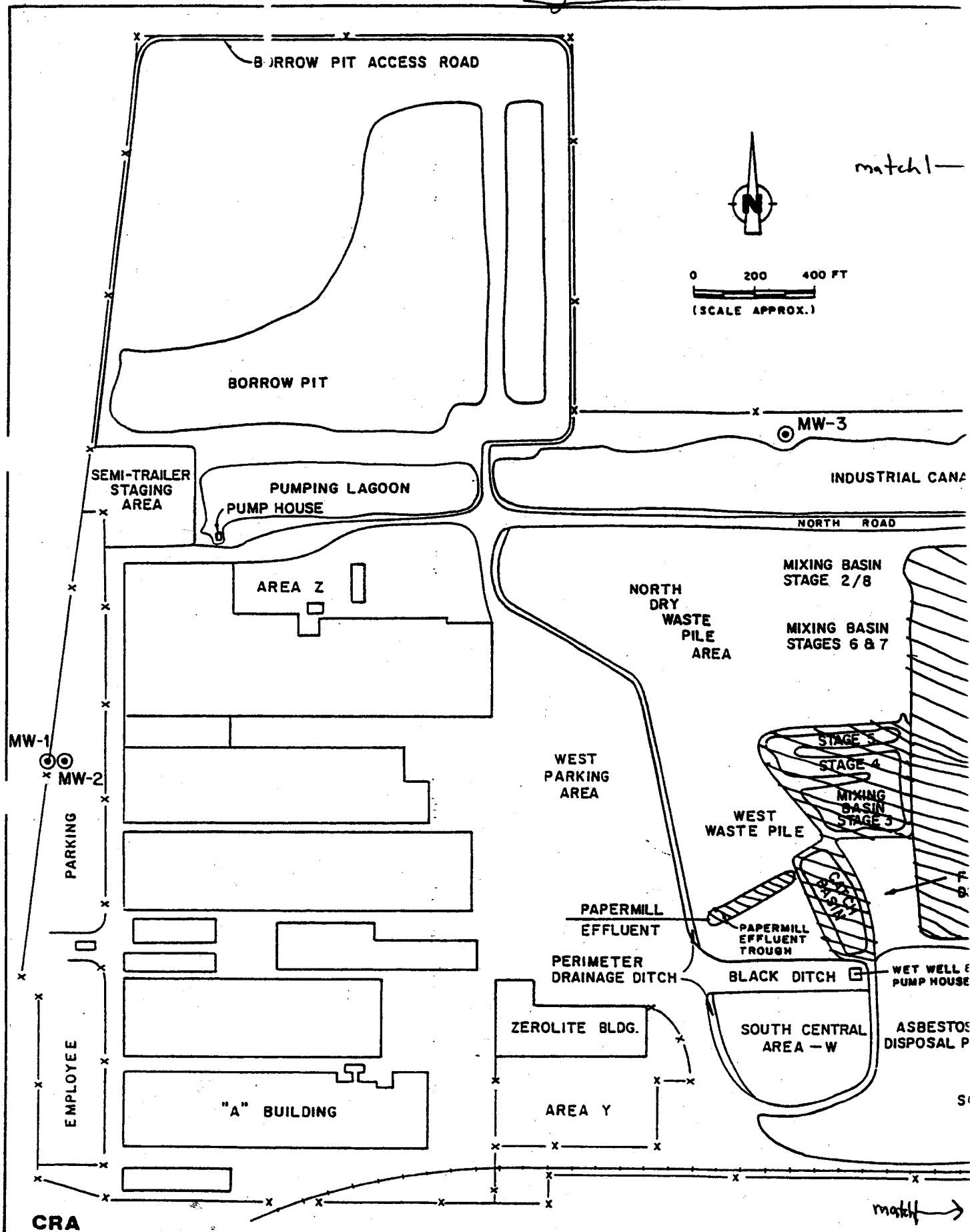


Figure 1

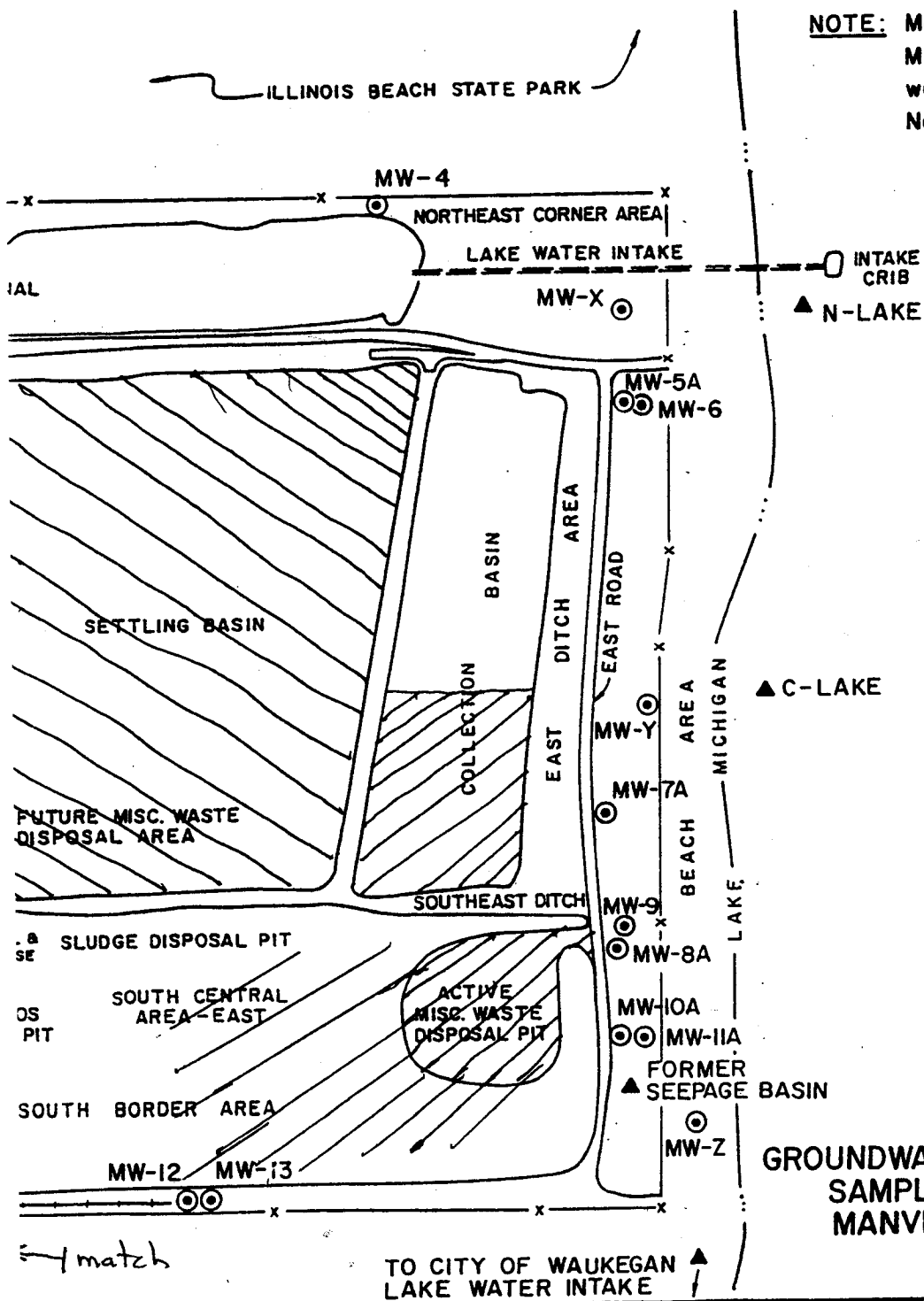
2/2

KEY

- ⊙ Monitoring Well Location
- MW-10 Monitoring Well Number
- ▲ Surface Water Sampling Location
- N-LAKE Surface Water Sampling Identification

← match

NOTE: Monitoring Wells MW-X, MW-Y and MW-Z used for water level data only. No samples collected.



Key:

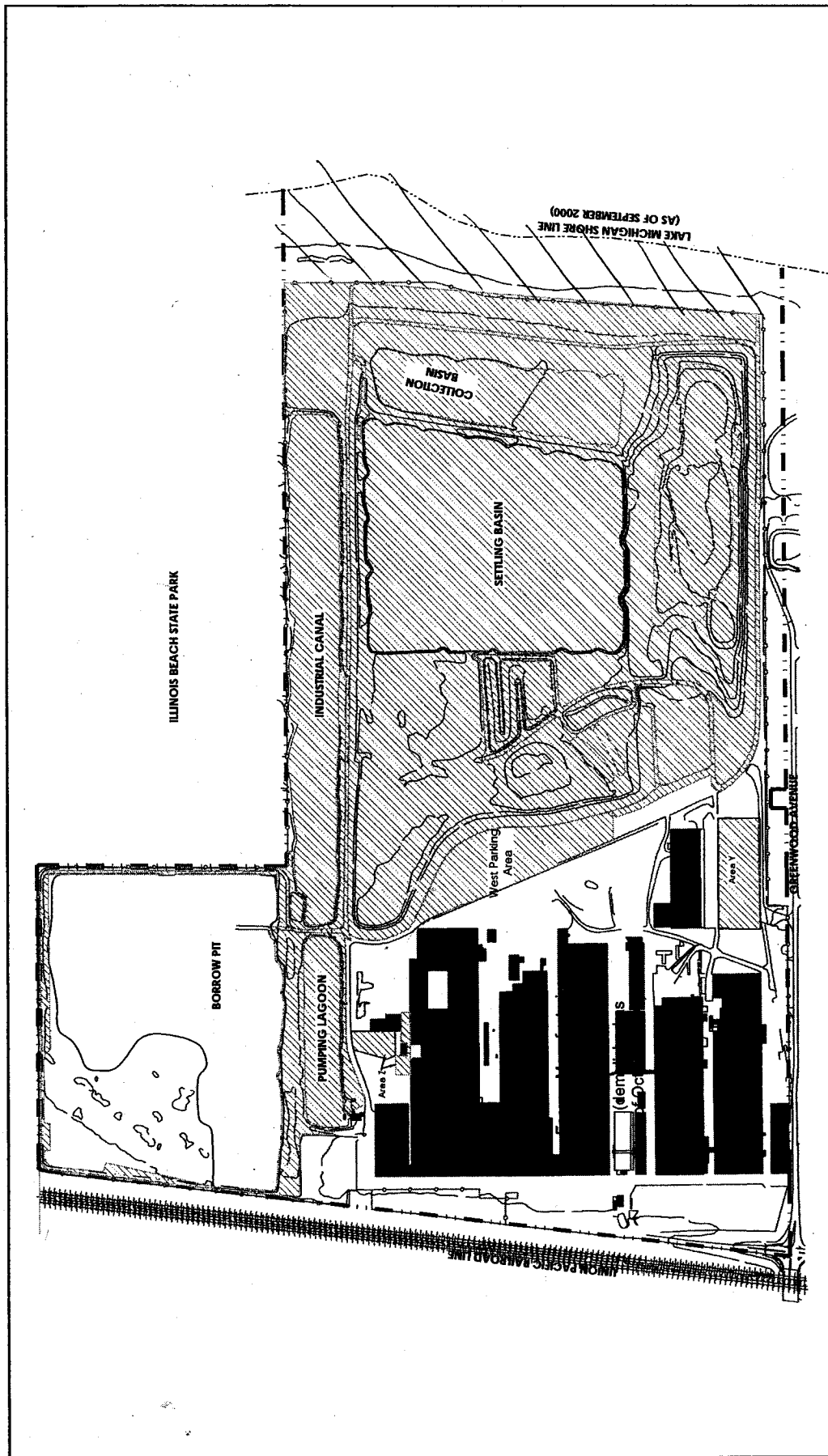
- On-Site Landfill Areas (approximate boundaries)
- Wastewater Treatment Plant (remaining)

GROUNDWATER / SURFACE WATER
SAMPLING LOCATION PLAN
MANVILLE DISPOSAL AREA
Waukegan, Illinois

← match

TO CITY OF WAUKEGAN
LAKE WATER INTAKE

Exhibits 3 - 10



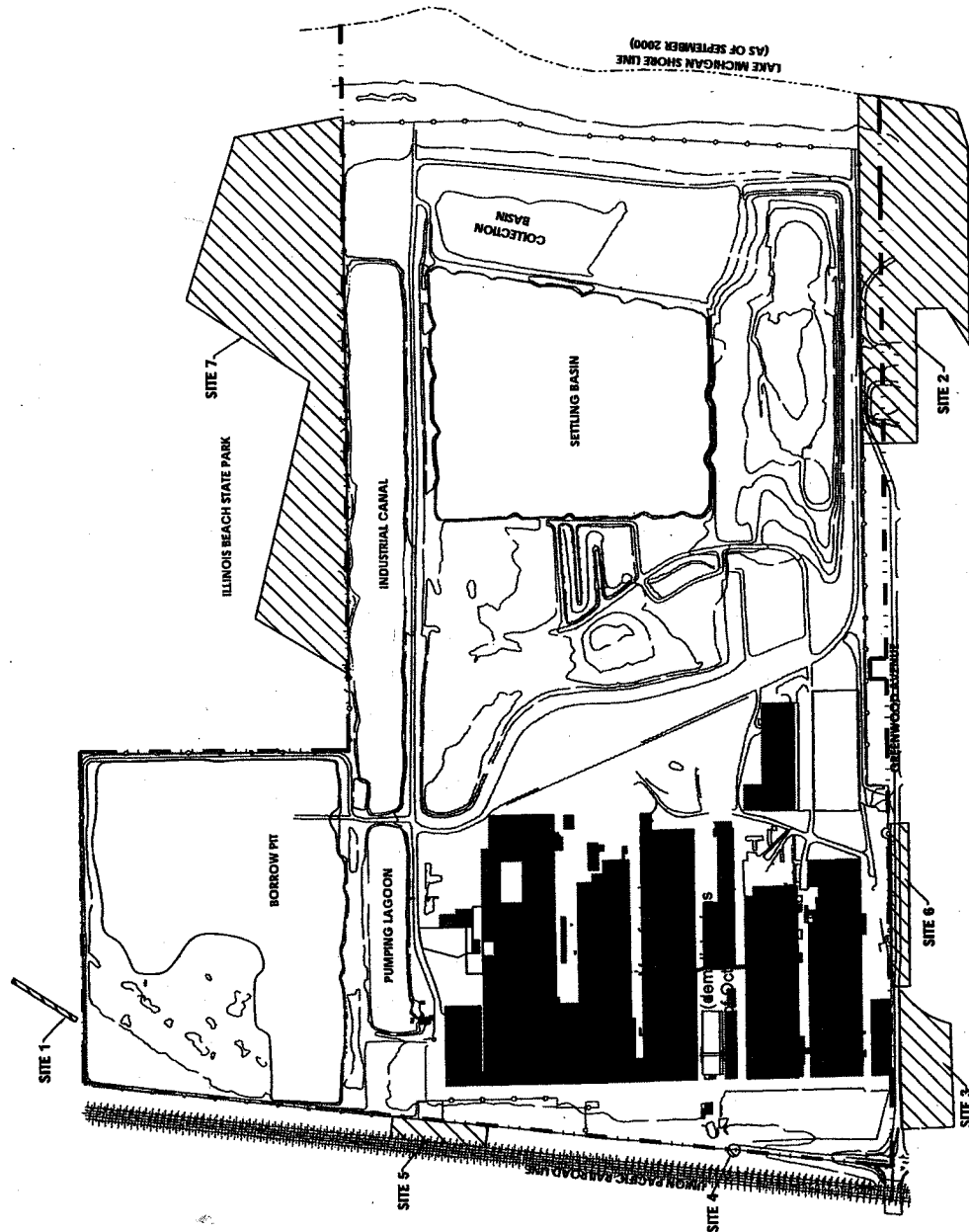
JOHNS MANVILLE
Waukegan, Illinois

FACILITY MAP

Exhibit 3 to First Amended Consent Decree in
 United States et al. v. Manville Sales Corporation
 (N.D. Ill. Civ. Action No. 88C 630)

--- Property Line
 Facility


August 2003, Revision 0



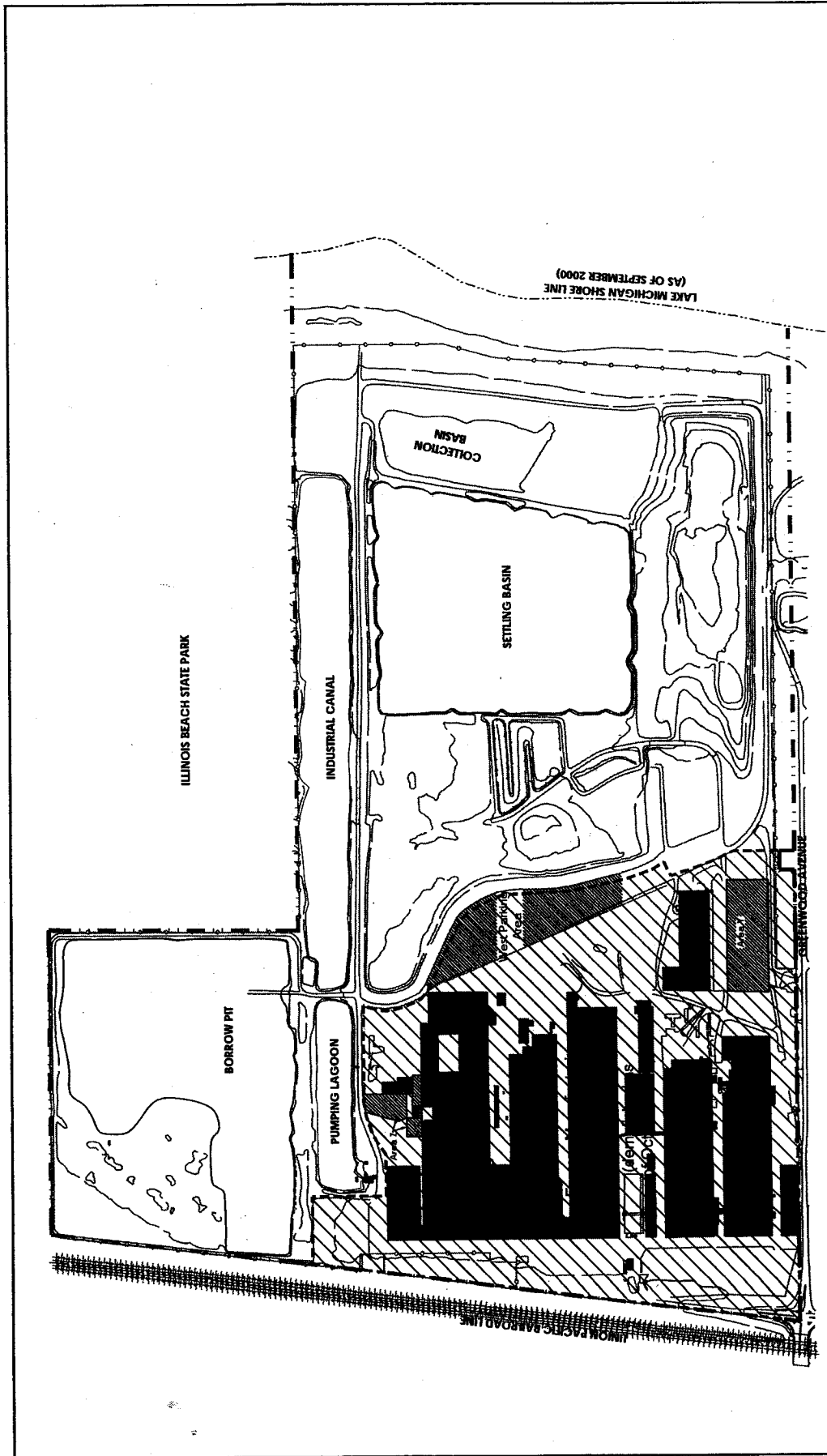
JOHNS MANVILLE
Waukegan, Illinois

SITES 1, 2, 3, 4, 5, 6 and 7

Exhibit 4 to First Amended Consent Decree in
 United States et al. v. Manville Sales Corporation
 (N.D. Ill. Civ. Action No. 88C 630)

- Property Line
-  Approximate areas of asbestos contamination discovered between 1998 and 2003

August 2003, Revision 0

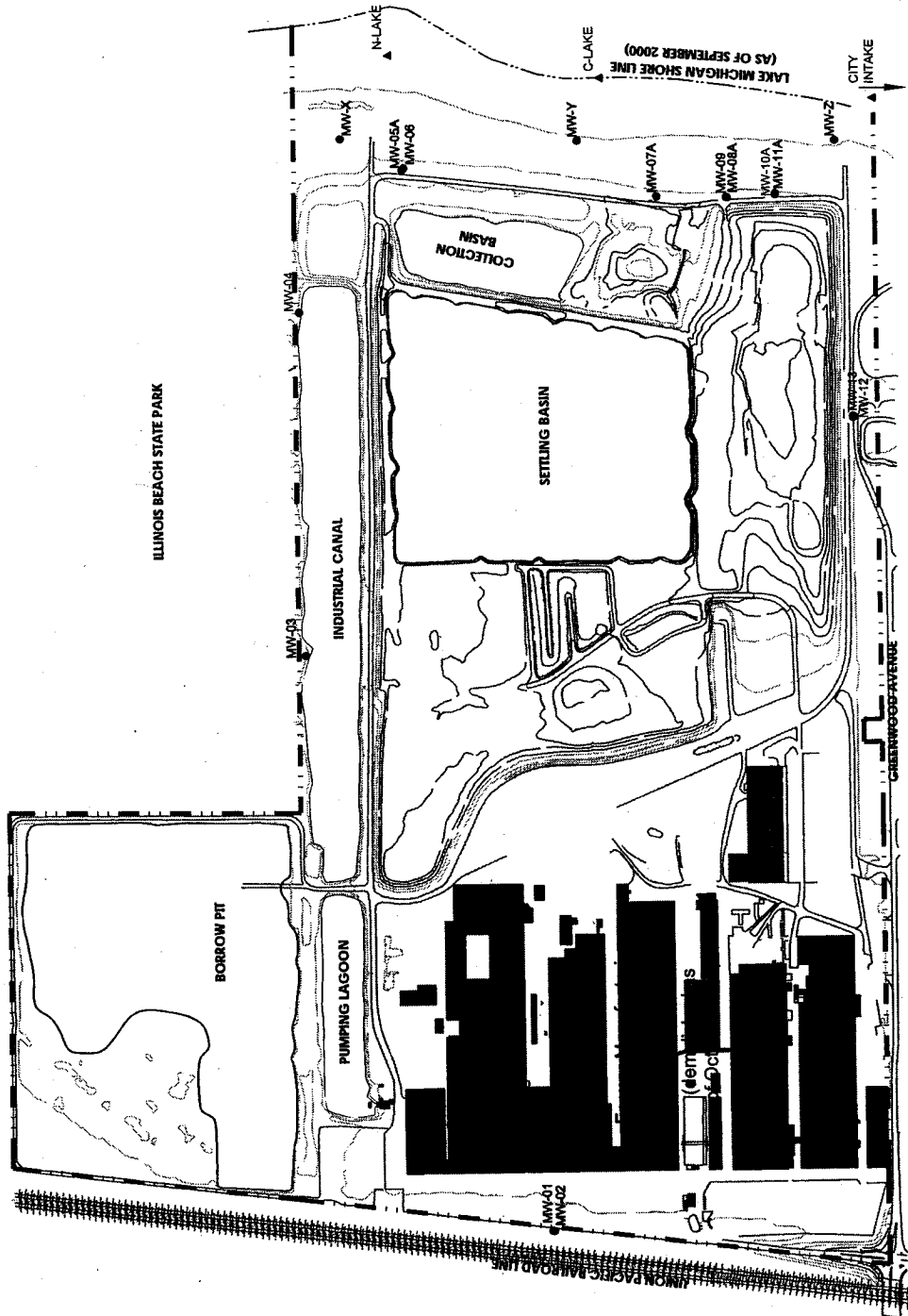


JOHNS MANVILLE
 Waukegan, Illinois

PROPERTY ENROLLED IN SRP

Exhibit 5 to First Amended Consent Decree in
 United States et al. v. Manville Sales Corporation
 (N.D. Ill. Civ. Action No. 88C 630)

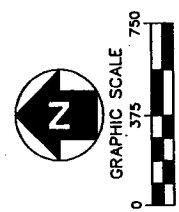
August 2003, Revision 0

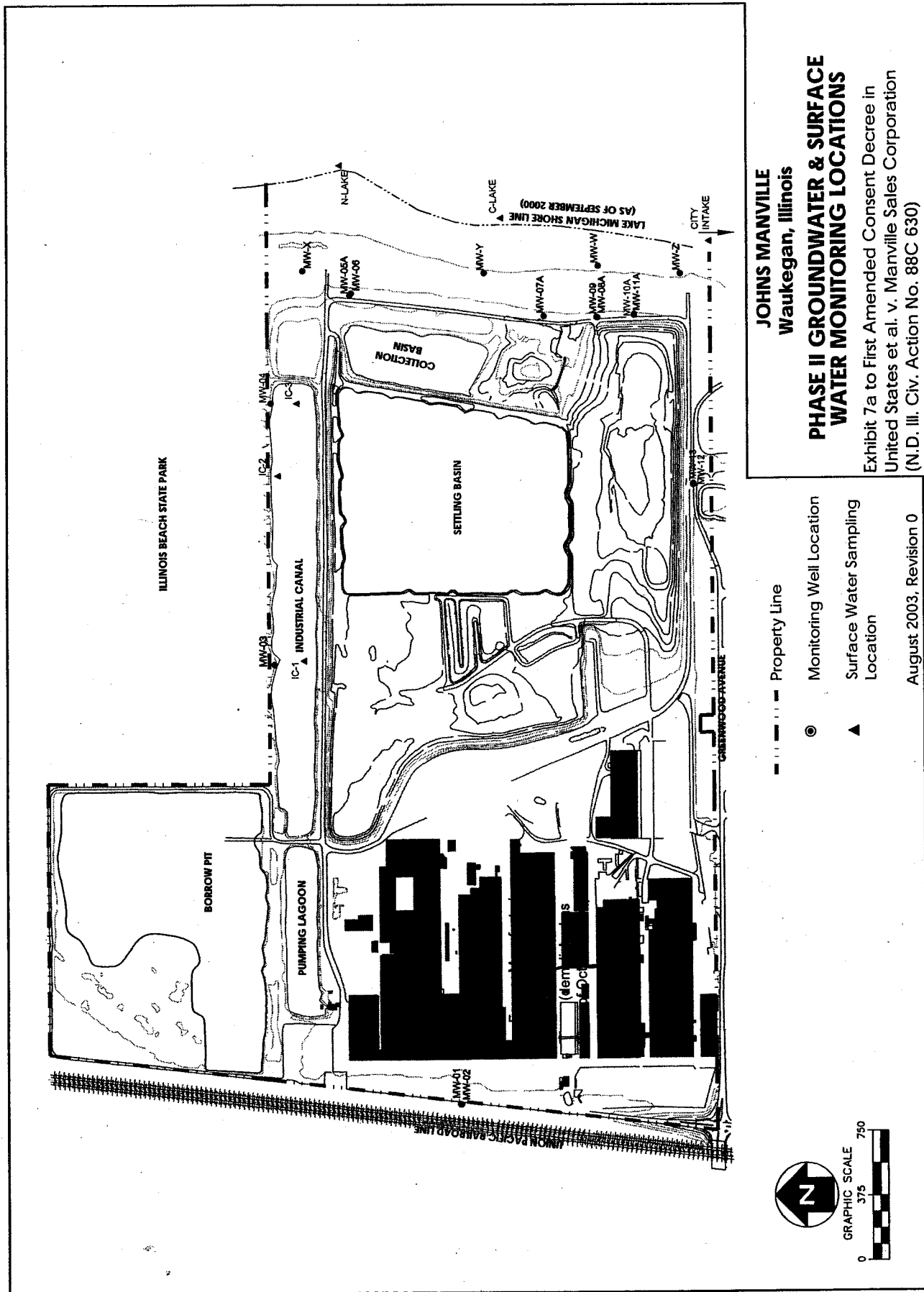


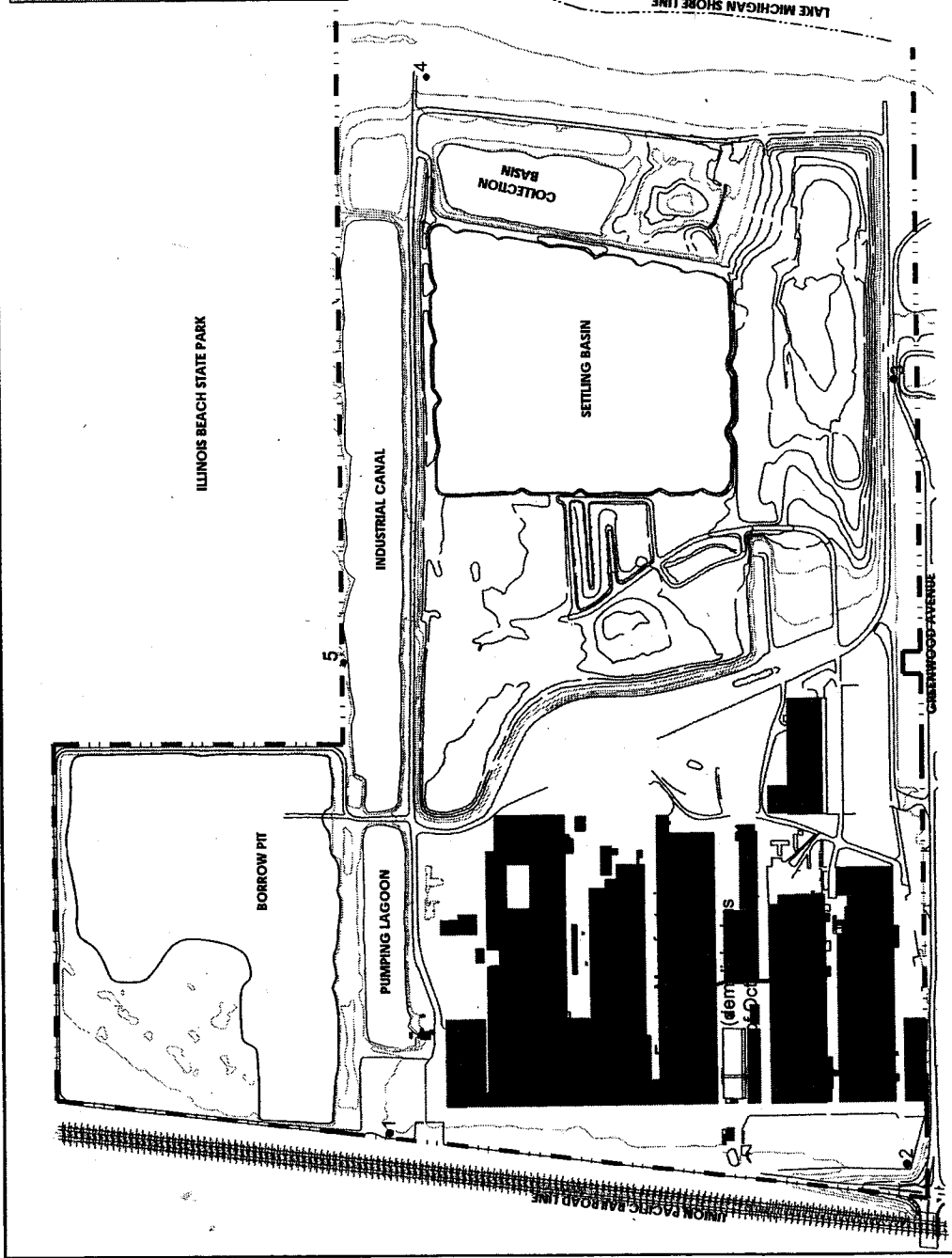
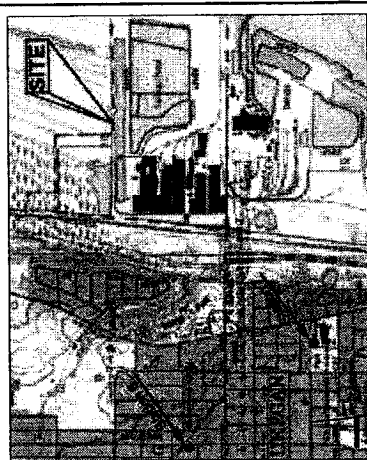
JOHNS MANVILLE
Waukegan, Illinois
PHASE I GROUNDWATER & SURFACE
WATER MONITORING LOCATIONS
 Exhibit 7 to First Amended Consent Decree in
 United States et al. v. Manville Sales Corporation
 (N.D. Ill. Civ. Action No. 88C 630)

- Property Line
- Monitoring Well Location
- ▲ Surface Water Sampling Location

August 2003, Revision 0





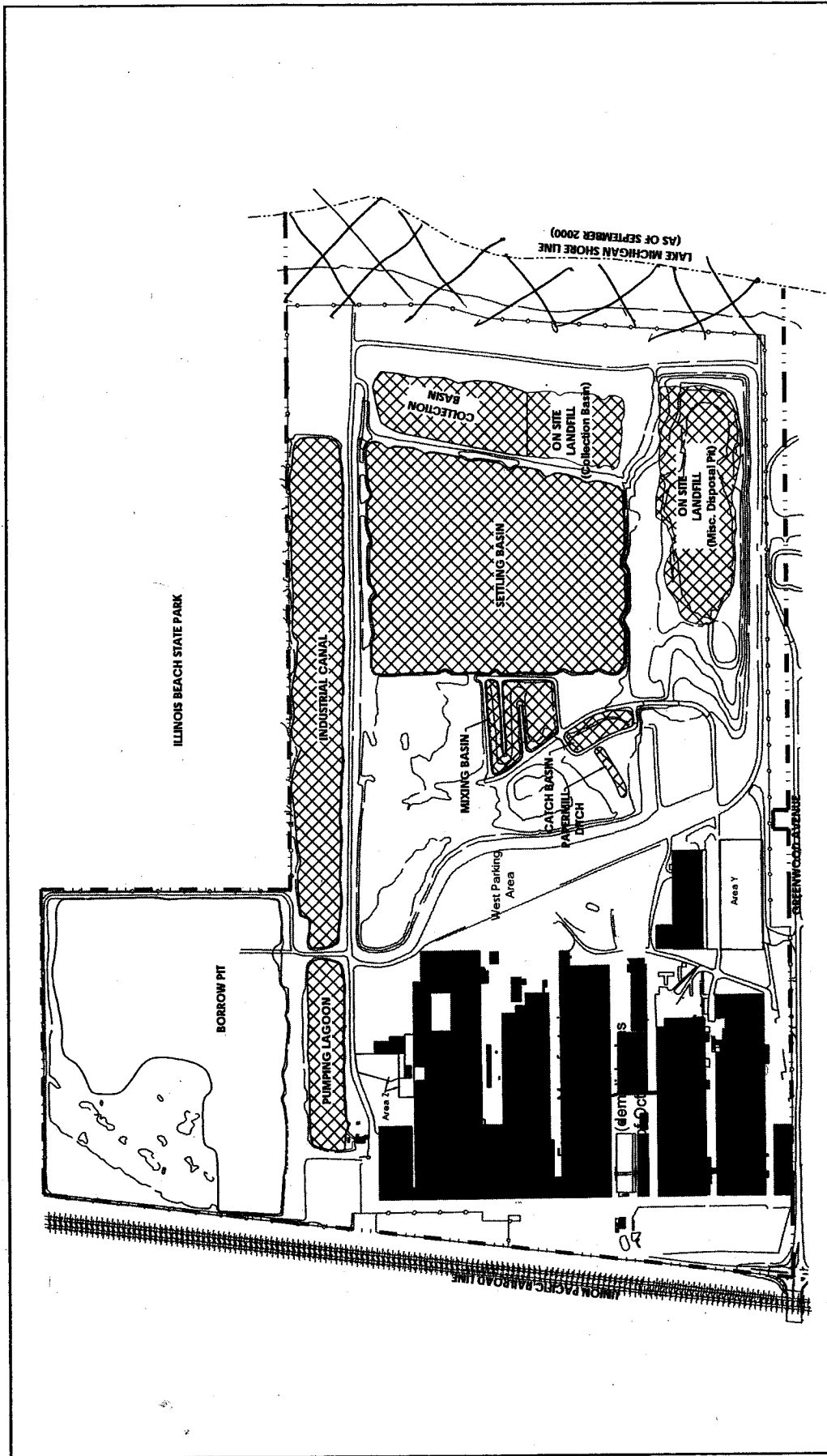


JOHNS MANVILLE
Waukegan, Illinois

PHASE I AIR MONITORING LOCATIONS

Exhibit 8 to First Amended Consent Decree in
United States et al. v. Manville Sales Corporation
(N.D. Ill. Civ. Action No. 88C 630)

August 2003, Revision 0



JOHNS MANVILLE
Waukegan, Illinois

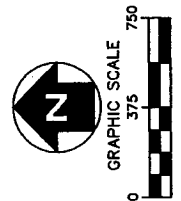
PHASE II WORK PLAN AREAS

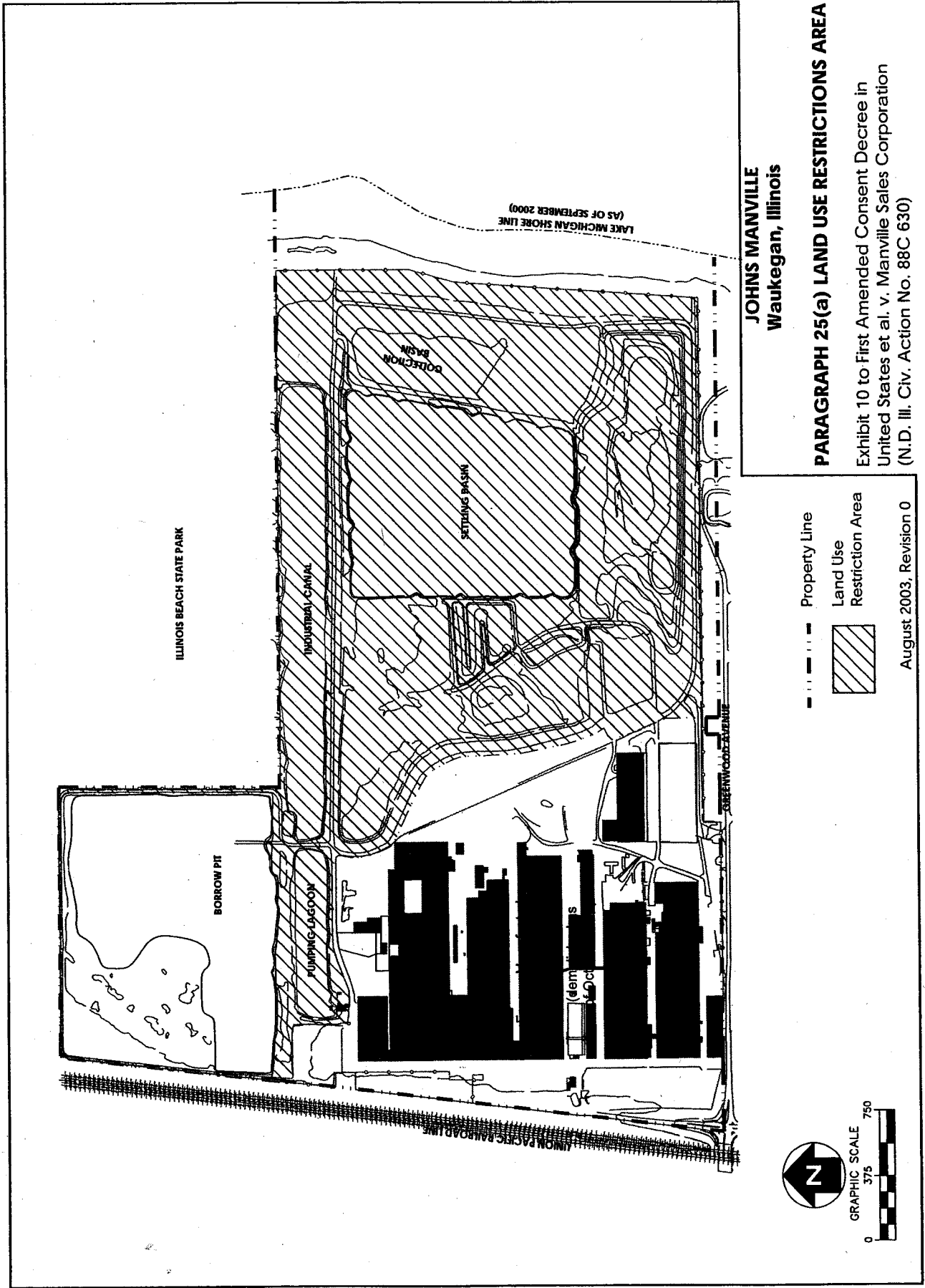
Exhibit 9 to First Amended Consent Decree in
 United States et al. v. Manville Sales Corporation
 (N.D. Ill. Civ. Action No. 88C 630)

--- Property Line

Phase II Work Plan Areas

August 2003, Revision 0





Exhibits 11 - 12

EXHIBIT 11
to First Amended Consent Decree
United States et al. v. Manville
(N.D. Ill. Civ. Action No. 88C 630)

Prepared By:

Return To:

NOTICE

1. This _____ day of _____, 20 __, JOHNS MANVILLE, a Delaware corporation, the current owner of the real property located in the County of Lake, State of Illinois, more particularly described on Appendix 1, which is attached hereto and made a part hereof (the "Property"), hereby records this Notice that the Property is subject to certain land and groundwater use restrictions.
2. The Property consists of the approximately 150-acre Johns Manville Waukegan Disposal Area Superfund Site ("the Site or the NPL Site"), which the U.S. Environmental Protection Agency ("U.S. EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on September 8, 1983.
3. The Property was used for the disposal of asbestos-containing waste material. The survey plot, including the location, depth, area and quantity of asbestos-containing waste disposed of within the Property, has been filed with the Administrator of the U.S. EPA. The Property is subject to the National Emission Standard for Asbestos set forth at 40 C.F.R. Part 61, Subpart M.
4. In a Record of Decision dated June 30, 1987 (the "ROD"), as modified by an Explanation of Significant Differences dated February 9, 1993, and a Second Explanation of Significant Differences dated September 22, 2000, the U.S. EPA Region 5 Regional Administrator selected a remedial action for the NPL Site that provided, in part, for the placement of a vegetative soil cover, asphalt cover, or riprap cover on asbestos-containing waste on the Property and for the placement of land use restrictions on the Property.
5. Johns Manville has agreed to implement the remedial action and the land use restrictions on the Property, in a Consent Decree entered on March 18, 1988, ("Consent Decree") and a First Amended Consent Decree entered on _____, 2003, ("First Amended Consent Decree") in the case of *United States of America and the State of*

Illinois v. Manville Sales Corporation, Civil Action No. 88 C 630 (N.D. Ill.), which requires Johns Manville: (a) to provide a permanent right of access over the Property to the State of Illinois and the United States for purposes of implementing, facilitating and monitoring the remedial action referenced above; (b) to limit permanently the use of the Property, for the purpose of protecting human health, the environment and the remedial action; and (c) to reserve an environmental easement and restrictive covenants running with the land that imposes the land use restrictions listed in paragraph 6 below and is enforceable by the United States and the State of Illinois, if Johns Manville conveys any interest in the Property.

6. **RESTRICTIONS ON USE:** The following restrictions apply to the Property, unless and until they are modified in accordance with Paragraph 7:

- 6.1 **No disturbance of cover:** Except as provided in a plan approved by U.S. EPA with Illinois EPA concurrence, no action shall be taken to excavate or drill or intrude into, or penetrate or otherwise disturb the facility cover demarcated in Appendix 2, which includes the vegetated soil cover, asphalt cover and riprap, or the soils below such vegetative soil cover or asphalt cover or riprap. The vegetative soil cover (consisting of 24 inches of compacted non-asbestos-containing soils and vegetation cover as defined in the Consent Decree and First Amended Consent Decree), asphalt cover and riprap overlay asbestos-containing waste materials on the Property.
- 6.2 **Maintenance of water levels:** Surface water on the Property shall be maintained at such levels to ensure that no water-covered asbestos-containing waste materials become exposed until closure of the paper mill ditch, catch basin, mixing basin stages 3, 4 and 5, and settling basin in accordance with the work plans as approved by U.S. EPA with Illinois EPA concurrence.
- 6.3 **No interference with remedy:** There shall be no interference of any sort, with the construction, operation, maintenance, monitoring, efficacy, or physical integrity of any component, structure, or improvement resulting from or relating to the remedial action on the Property implemented pursuant to the Consent Decree and First Amended Consent Decree. No action shall be taken that would cause covered waste materials to become exposed.
- 6.4 **Land uses:** The Property shall not be used for any of the following purposes:
 - (a) Residential, including any dwelling units and rooming units, mobile homes or factory built housing, camping facilities, hotels, or other unit constructed or installed for occupancy on a 24-hour basis;
 - (b) A hospital for humans;
 - (c) Educational institutions such as a public or private school;
 - (d) A day care center for children;

- (e) Any purpose involving occupancy on a 24-hour basis; or
- (f) Any use that would disturb or penetrate the facility cover as described in subparagraph 6.1 or interfere with the remedy as described in subparagraph 6.3 (e.g. construction of buildings).

6.5 Ground water uses: No activities shall be conducted on the Property that extract, consume, or otherwise use any groundwater from the Property, nor shall any wells be constructed on the Property for purposes other than ground water monitoring, unless approved by U.S. EPA with State of Illinois concurrence.

7. MODIFICATION OF RESTRICTIONS: The land and groundwater use restrictions shall continue until and unless U.S. EPA, with the concurrence of Illinois EPA, approves the modification or rescission of the restrictions. U.S. EPA, with the concurrence of Illinois EPA, may modify or terminate, in whole or in part, the restrictions set forth in subparagraphs 6.1-6.5 in writing, as authorized by law. The owner of the Property may seek to modify or terminate, in whole or in part, the restrictions set forth in subparagraphs 6.1-6.5 by submitting to U.S. EPA, the State of Illinois and Johns Manville a written application that identifies each such restriction to be terminated or modified, describes the terms of each proposed modification, any proposed revisions to this notice and any proposed changes to the environmental easement and restrictive covenants applicable to the Property. Each application for termination or modification of any restriction set forth in subparagraphs 6.1- 6.5 shall include a demonstration by the owner of the Property that the requested termination or modification will not interfere with, impair or reduce:

- a) the effectiveness of any remedial measures undertaken pursuant to the Consent Decree and First Amended Consent Decree;
- b) the long term protectiveness of the Remedial Action; or
- c) protection of human health and the environment.

If U.S. EPA, with the concurrence of Illinois EPA, makes a determination that an application satisfies the requirements of this paragraph, U.S. EPA will notify the owner of the Property in writing. If U.S. EPA does not respond in writing within 90 days to an application to modify or terminate any restrictions, U.S. EPA shall be deemed to have denied owner's application. Any approved modification of the use restrictions shall be recorded with the Recorder of Deeds, Lake County, Illinois. Johns Manville reserves its right to use the dispute resolution procedures in Section XII of the First Amended Consent Decree concerning U.S. EPA's determination on an owner's application.

8. Access: The Property is subject to an irrevocable, permanent and continuing right of access by the United States, Illinois EPA and Johns Manville at all reasonable times for purposes listed below.

- a) Implementing response actions in any CERCLA decision document affecting the Property or any associated work plans;

- b) Verifying any data or information submitted to U.S. EPA and Illinois EPA;
 - c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of the First Amended Consent Decree;
 - d) Monitoring response actions on the Property and conducting investigations relating to contamination on or near the Property, including, without limitation, sampling of air, water, sediments, soils, and obtaining split or duplicate samples;
 - e) Conducting periodic reviews of the remedial action, including but not limited to, reviews required by applicable statutes and/or regulations and by CERCLA;
 - f) Implementing additional or new response actions if the U.S. EPA with the concurrence of Illinois EPA, pursuant to authority under applicable law, determine that such actions are necessary.
9. NO LIMITATION OF RIGHTS OR AUTHORITIES: Nothing in this document shall limit or otherwise affect U.S. EPA's or the State of Illinois' rights of entry and access or authority to take response actions under CERCLA, the NCP, or other federal or state law.
10. NO PUBLIC ACCESS AND USE: No right of access or use by the general public to any portion of the Property is intended or conveyed by this instrument.
11. INSPECTION AND ENFORCEMENT: In addition to the access rights set forth in Paragraph 8 and 9 above, the United States, State of Illinois and/or Johns Manville may enter the Property from time to time for the purposes of performing inspections, overseeing remedy implementation or enforcing the restrictions set forth in subparagraphs 6.1-6.5 above after permission from or reasonable notice to the owners or the owners' representative.
12. NOTICES: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

Johns Manville
717 17th St.
Denver CO 80202
Attn: Legal Department
Environmental

United States Environmental Protection Agency
Superfund Division
77 W. Jackson Blvd.
Mail Code: SR-6J
Chicago IL 60604-3590

13. Appendices

- 5

EXHIBIT 12
to First Amended Consent Decree
United States et al. v. Manville
(N.D. Ill. Civ. Action No. 88C 630)

Prepared by:

Return To:

NOTICE

1. This _____ day of _____, 20 __, JOHNS MANVILLE, a Delaware corporation, the current owner of the real property located in the County of Lake, State of Illinois, more particularly described on Appendix 1, which is attached hereto and made a part hereof (the "Property"), hereby records this Notice that the Property is subject to certain groundwater and land use restrictions.
2. On ____, Johns Manville entered the Property in the Illinois Site Remediation Program ("SRP") for the purposes of investigating and remediating the Property.
3. Pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, the U.S. Environmental Protection Agency ("EPA") placed the approximately 150-acre Johns Manville Waukegan Disposal Area Superfund Site ("the Site or the NPL Site"), on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on September 8, 1983.
4. The Property is adjacent to and on the west side of the NPL Site and was part of the former manufacturing plant area owned and operated by Johns Manville.
5. In a Record of Decision dated June 30, 1987 (the "ROD"), as modified by an Explanation of Significant Differences dated February 9, 1993, and a Second Explanation of Significant Differences dated September 22, 2000, the U.S. EPA Region 5 Regional Administrator selected a remedial action for the NPL Site that provided, in part, for the placement of groundwater and land use restrictions at and near the NPL Site;
6. Johns Manville has agreed to implement the remedial action and the groundwater and land use restrictions on the Property, in a Consent Decree entered on March 18, 1988, ("Consent Decree") and a First Amended Consent Decree entered on

_____, 2003, ("First Amended Consent Decree") in the case of *United States of America and the State of Illinois v. Manville Sales Corporation*, Civil Action No. 88 C 630 (N.D. Ill.).

7. RESTRICTIONS ON USE: The following restrictions apply to the Property, unless and until it is modified in accordance with Paragraph 8.

Ground water uses: No activities shall be conducted on the Property that extract, consume, or otherwise use any groundwater from the Property, nor shall any wells be constructed on the Property for purposes other than ground water monitoring, unless approved by U.S. EPA with State of Illinois concurrence.

Restrictions applicable to Site Y, Site Z and the western parking lot portion of the Property as identified in Appendix 2:

No action shall be taken to drill or intrude into, penetrate or otherwise disturb the asphalt cover on Site Y, Site Z and the western parking lot portion of the Property as identified in Appendix 2.

8. MODIFICATION OF RESTRICTIONS: The groundwater and land use restrictions shall continue until and unless U.S. EPA, with the concurrence of Illinois EPA, approves the modification or rescission of the restrictions. U.S. EPA, with the concurrence of Illinois EPA, may modify or terminate, in whole or in part, the restrictions set forth in paragraph 7 in writing, as authorized by law. The owner of the Property may seek to modify or terminate, in whole or in part, the restrictions set forth in paragraph 7 by submitting to U.S. EPA, the State of Illinois and Johns Manville a written application that identifies each such restriction to be terminated or modified, describes the terms of each proposed modification, any proposed revisions to this Notice and any proposed changes to the environmental easement and restrictive covenant applicable to the Property. Each application for termination or modification of any these set forth in paragraph 7 shall include a demonstration by the owner of the Property that the requested termination or modification will not interfere with, impair or reduce:

- a) the effectiveness of any remedial measures undertaken pursuant to the Consent Decree and First Amended Consent Decree;
- b) the long term protectiveness of the Remedial Action; or
- c) protection of human health and the environment.

If U.S. EPA, with the concurrence of Illinois EPA, makes a determination that an application satisfies the requirements of this paragraph, U.S. EPA will notify the owner of the Property in writing. If U.S. EPA does not respond in writing within 90 days to an application to modify or terminate any restrictions, U.S. EPA shall be deemed to have denied owner's application. Any approved modification of the use restrictions shall be recorded with the Recorder of Deeds, Lake County, Illinois. Johns Manville reserves its

right to use the dispute resolution procedures in Section XII of the First Amended Consent Decree concerning U.S. EPA's determination on an owner's application.

9. Access: The Property is subject to an irrevocable, permanent and continuing right of access by the United States, Illinois EPA and Johns Manville at all reasonable times to the Property for purposes listed below.
 - a) Implementing response actions in any CERCLA decision document affecting the Property or any associated work plans;
 - b) Verifying any data or information submitted to U.S. EPA and Illinois EPA;
 - c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of the First Amended Consent Decree;
 - d) Monitoring response actions on the Property and conducting investigations relating to contamination on or near the Property, including, without limitation, sampling of air, water, sediments, soils, and obtaining split or duplicate samples;
 - e) Conducting periodic reviews of the remedial action, including but not limited to, reviews required by applicable statutes and/or regulations and by CERCLA;
 - f) Implementing additional or new response actions if the U.S. EPA with the concurrence of Illinois EPA, pursuant to authority under applicable law, determine that such actions are necessary.
10. NO LIMITATION OF RIGHTS OR AUTHORITIES: Nothing in this document shall limit or otherwise affect U.S. EPA's or the State of Illinois' rights of entry and access or authority to take response actions under CERCLA, the NCP, or other federal or state law.
11. NO PUBLIC ACCESS AND USE: No right of access or use by the general public to any portion of the Property is intended or conveyed by this instrument.
12. INSPECTION AND ENFORCEMENT: In addition to the access rights set forth in paragraph 9 above, the United States, State of Illinois and/or Johns Manville may enter the Property from time to time for the purposes of performing inspections, overseeing remedy implementation or enforcing the restrictions set forth in paragraph 7 above after permission from or reasonable notice to the owners or the owners' representative.
13. NOTICES: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

Johns Manville
717 17th St.
Denver CO 80202
Attn: Legal Department
Environmental

IN WITNESS WHEREOF, Johns Manville has caused this Notice to be signed in its name.

Executed this _____ day of _____, 200_.

JOHNS MANVILLE

By: _____

STATE OF COLORADO)
) ss
CITY AND COUNTY OF DENVER)

On this ____ day of _____, 200__, before me, the undersigned, a Notary Public in and for the State of Colorado, duly commissioned and sworn, personally appeared _____, known to be the _____ of Johns Manville, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.

Notary Public in and for the
State of Colorado

My Commission Expires: _____.

Exhibits 13 - 14

EXHIBIT 13
to First Amended Consent Decree
United States et al. v. Manville
(N.D. Ill. Civ. Action No. 88C 630)

Prepared by:

Return to:

WARRANTY DEED
WITH RESERVATION OF
ENVIRONMENTAL EASEMENT
and
DECLARATION OF RESTRICTIVE COVENANTS

This _____ day of _____, 20____, the Grantor, JOHNS MANVILLE ("JM"), a Delaware corporation, for and in consideration of _____, conveys and warrants to Grantee, _____, a _____ corporation, the real estate located in the County of Lake, State of Illinois, more particularly described on Appendix 1, which is attached hereto and made a part hereof (the "Property"), subject to the reservation of an Environmental Easement and Declaration of Restrictive Covenants more particularly described as follows:

WITNESSETH:

WHEREAS, the Property is part of the approximately 150 acre Johns Manville Waukegan Disposal Area Superfund Site ("the Site or the NPL Site"), which the U.S. Environmental Protection Agency ("U.S. EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on September 8, 1983;

WHEREAS, in a Record of Decision dated June 30, 1987 (the "ROD"), as modified by an Explanation of Significant Differences dated February 9, 1993, and a Second Explanation of Significant Differences dated September 22, 2000, the U.S. EPA Region 5 Regional Administrator selected a remedial action for the NPL Site that provided, in part, for the placement of a vegetative soil cover, asphalt cover, or riprap cover on asbestos-containing waste on the Site, including the Property, and for the placement of land use restrictions on the Site, including the Property;

WHEREAS, the Site, including the Property, was used for the disposal of asbestos-containing waste material. The survey plot, including the location, depth, area and quantity of asbestos-containing waste disposed of within the Property, is set forth in Appendix 4. The Property is subject to the National Emission Standard for Asbestos set forth at 40 C.F.R. Part 61, Subpart M. ;

WHEREAS, the Grantor has agreed to implement the remedial action and the land use restrictions on the Site, including the Property, in a Consent Decree entered on March 18, 1988, ("Consent Decree") and a First Amended Consent Decree entered on _____, 2003, ("First Amended Consent Decree") in the case of *United States of America and the State of Illinois v. Manville Sales Corporation*, Civil Action No. 88 C 630 (N.D. Ill.), which require the Grantor: 1) to provide a permanent right of access over the Site, including the Property, to the State of Illinois and the United States for purposes of implementing, facilitating and monitoring the remedial action referenced above; and 2) to limit permanently the use of the Site, including the Property, for the purpose of preventing interference with the remedial action and thereby protecting human health and the environment;

NOW, THEREFORE:

1.0 AGREEMENT AND RESERVATION: Grantor, on behalf of itself, its successors and assigns, in consideration of the foregoing and the specific agreements hereinafter made by Grantee, for itself and its successors and assigns, to take subject to and abide by all reservations, restrictions, covenants, exceptions, notifications, conditions and agreements hereinafter set forth in this Deed, does hereby reserve a right to restrict the use of the subject land in perpetuity, the right to enforce said restrictions, a right of access and the right to an environmental easement over the land, all as more particularly hereinafter set forth.

2.0 THIRD PARTY BENEFICIARIES: Grantor on behalf of itself and its successors, transferees and assigns and the Grantee on behalf of itself and its successors, transferees, and assigns hereby agree that the United States, acting by and through U.S. EPA, and its successors and assigns, and the State of Illinois, acting by and through Illinois EPA, and its successors and assigns, shall be Third Party Beneficiaries of all the benefits and rights of the easements, reservations, restrictions, covenants, exceptions, notifications, conditions and agreements herein, and that the Third Party Beneficiaries shall have the right to enforce the easements and restrictions described herein.

3.0 PURPOSE: The purpose of this reservation is to retain in Grantor real property rights, which will run with the land, to facilitate the remediation of past environmental contamination; to protect human health and the environment by reducing the risk of exposure to contaminants; to provide for the long-term protectiveness of the remedial action; and to accomplish these goals in a manner that allows the redevelopment and beneficial reuse of the Property to the extent reasonably possible.

4.0 RESTRICTIONS ON USE: The parties intend that the restrictions and covenants that follow apply to the use of the Property, run with the land for the benefit of the Grantor and the Third Party Beneficiaries, and are binding upon:

- a) the Grantee and its successors, transferees, and assigns or persons acting under their direction and control; and
- b) any subsequent owner, occupants or other person acquiring an interest in the Property and their authorized agents, employees, or persons acting under their direction and control.

4.1 No disturbance of cover: Except as provided in a plan approved by U.S. EPA with Illinois EPA concurrence and except as provided in Paragraph 5, no action shall be taken to excavate or drill or intrude into, or penetrate or otherwise disturb the facility cover demarcated in Appendix 3, which includes the vegetated soil cover, asphalt cover and riprap, or the soils below such vegetative soil cover or asphalt cover or riprap. The vegetative soil cover (consisting of 24 inches of compacted non-asbestos-containing soils and vegetation cover as defined in the Consent Decree and First Amended Consent Decree), asphalt cover and riprap overlay asbestos-containing waste materials on the Property.

4.2 Maintenance of water levels: Surface water on the Property shall be maintained at such levels to ensure that no water-covered asbestos-containing waste materials become exposed until closure of the paper mill ditch, catch basin, mixing basin stages 3, 4 and 5, and settling basin in accordance with work plans as approved by U.S. EPA with Illinois EPA concurrence.

4.3 No interference with remedy: There shall be no interference of any sort, with the construction, operation, maintenance, monitoring, efficacy, or physical integrity of any component, structure, or improvement resulting from or relating to the remedial action on the Property implemented pursuant to the Consent Decree and First Amended Consent Decree. No action shall be taken that would cause covered waste materials to become exposed.

4.4 Land uses: Unless modified in accordance with paragraph 5 of this instrument, the Property shall not be used for any of the following purposes:

- (a) Residential, including any dwelling units and rooming units, mobile homes or factory built housing, camping facilities, hotels, or other unit constructed or installed for occupancy on a 24-hour basis;
- (b) A hospital for humans;
- (c) Educational institutions such as a public or private school;
- (d) A day care center for children;
- (e) Any purpose involving occupancy on a 24-hour basis; or
- (f) Any use that would disturb or penetrate the facility cover described in subparagraph 4.1 or interfere with the remedy described in subparagraph 4.3 (e.g. construction of buildings).

No change shall be made to the land use restrictions in this subparagraph, except pursuant to the procedures in Paragraph 5 of this instrument, and except with the consent of any other federal, state or local governmental agencies having jurisdiction over the proposed activities, and subject to applicable statutes, ordinances, rules and regulations in effect at such time.

4.5 Ground water uses: No activities shall be conducted on the Property that extract, consume, or otherwise use any groundwater from the Property, unless approved by U.S. EPA with State of Illinois concurrence nor shall any wells be constructed on the Property for purposes other than ground water monitoring, unless approved by U.S. EPA with State of Illinois concurrence.

4.6 Effective date of restrictions: The foregoing restrictions on use of the Property are subject to applicable statutes, ordinances, rules and regulations, and take effect upon the date of execution of this document and remain in effect until both U.S. EPA and the State of Illinois issue a written determination to either modify or terminate the conditions and restrictions pursuant to Paragraph 5 below.

5. MODIFICATION OF RESTRICTIONS: The restrictive covenants in the preceding subparagraphs shall continue unless and until U.S. EPA, with the concurrence of Illinois EPA, approves the modification or rescission of these restrictive covenants. U.S. EPA, with the concurrence of Illinois EPA, may modify or terminate, in whole or in part, the restrictions set forth in subparagraphs 4.1- 4.5 in writing, as authorized by law. The owner of the Property may seek to modify or terminate, in whole or in part, the restrictions set forth in subparagraphs 4.1- 4.5 by submitting to U.S. EPA, the State of Illinois and Johns Manville, a written application that identifies each such restriction to be terminated or modified, describes the terms of each proposed modification, and any proposed revisions to the environmental easement/restrictive covenants in this Deed. Each application for termination or modification of any restriction set forth in subparagraphs 4.1- 4.5 shall include a demonstration by the owner of the Property that the requested termination or modification will not interfere with, impair or reduce:

- a) the effectiveness of any remedial measures undertaken pursuant to the Consent Decree and First Amended Consent Decree;
- b) the long term protectiveness of the Remedial Action; or
- c) protection of human health and the environment.

If U.S. EPA, with the concurrence of Illinois EPA, makes a determination that an application satisfies the requirements of this paragraph, including the criteria specified in (a) through (c), above, U.S. EPA will notify the owner of the Property in writing. If U.S. EPA does not respond in writing within 90 days to an application to modify or terminate any restrictions, U.S. EPA shall be deemed to have denied owner's application. Any modification of these restrictive covenants shall be recorded with Recorder of Deeds, Lake County, Illinois. Johns Manville reserves its right to use the dispute resolution procedures in Section XII of the First Amended Consent Decree concerning U.S. EPA's determination on an owner's application.

6. MONITORING WELLS: Grantor reserves access to all well equipment and improvements, and exclusive use of the existing monitoring wells/piezometers located on the Property (as identified below) together with access across the property as required for the purpose of maintaining, improving, monitoring and/or removing the wells/piezometers.

[Location of wells here]

7. ENVIRONMENTAL EASEMENT: Reserving to the Grantor, for its use, and for the use of the Third Party Beneficiaries, an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes listed below.

- a) Implementing response actions in any CERCLA decision document affecting the Property or any associated work plans;
- b) Verifying any data or information submitted to U.S. EPA and Illinois EPA;
- c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of the First Amended Consent Decree;
- d) Monitoring response actions on the Property and conducting investigations relating to contamination on or near the Property, including, without limitation, sampling of air, water, sediments, soils, and obtaining split or duplicate samples;
- e) Conducting periodic reviews of the remedial action, including, but not limited to, reviews required by applicable statutes and/or regulations and by CERCLA;
- f) Implementing additional or new response actions if the U.S. EPA and/or Illinois EPA, pursuant to authority under applicable law, determine that such actions are necessary.

8. NO LIMITATION OF RIGHTS OR AUTHORITIES: Nothing in this document shall limit or otherwise affect U.S. EPA's or the Illinois EPA's or the Illinois Attorney General's rights of entry and access or U.S. EPA's or the Illinois EPA's or the Illinois Attorney General's authority to take response actions under CERCLA, the NCP, or other federal or state law.

9. NO PUBLIC ACCESS AND USE: No right of access or use by the general public to any portion of the Property is intended or conveyed by this instrument.

10. NOTICE REQUIREMENT FOR TRANSFER OF PROPERTY: Grantee agrees to include in any instrument conveying any interest in any portion of the Property, including, but not limited to deeds, leases and mortgages, a notice in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY:

(1) IS SUBJECT TO ACCESS RIGHTS AND LAND USE RESTRICTIONS
CONTAINED IN A DEED WITH RESERVATION OF ENVIRONMENTAL
EASEMENT AND RESTRICTIVE COVENANTS IN FAVOR OF JOHNS
MANVILLE AS GRANTOR TO _____ AS
GRANTEE, DATED ____ AND RECORDED IN THE OFFICE OF THE

RECORDER OF DEEDS, LAKE COUNTY, ILLINOIS, ON _____ 200_,
IN BOOK ___, PAGE ___. THESE RIGHTS AND RESTRICTIONS RUN
WITH THE LAND AND ARE ENFORCEABLE BY THE UNITED STATES,
THE STATE OF ILLINOIS, AND JOHNS MANVILLE.

(2) THE PROPERTY IS PART OF AN NPL SITE THAT WAS USED FOR THE DISPOSAL OF ASBESTOS-CONTAINING WASTE MATERIAL. APPENDIX 4 OF THE DEED SETS FORTH THE SURVEY PLOT, LOCATION, DEPTH, AREA AND QUANTITY OF ASBESTOS-CONTAINING WASTE DISPOSED OF WITHIN THE PROPERTY AS REQUIRED BY 40 C.F.R. § 61.151(e) AND 40 C.F.R. § 61.154(f). THE PROPERTY IS SUBJECT TO THE NATIONAL EMISSIONS STANDARD FOR ASBESTOS SET FORTH AT 40 C.F.R. PART 61, SUBPART M.

(3) EPA SELECTED A REMEDY FOR THE NPL SITE, INCLUDING THE PROPERTY, AND JOHNS MANVILLE HAS ENTERED INTO A CONSENT DECREE WHICH WAS ENTERED ON MARCH 18, 1988, AND SUBSEQUENTLY AMENDED AND ENTERED ON _____ IN THE CASE OF *United States of America and the State of Illinois v. Manville Sales Corporation*, Civil Action No. 88 C 630 (N.D. Ill.) REQUIRING IMPLEMENTATION OF THE REMEDY AND RESTRICTIONS ON THE USE OF THE PROPERTY.

11. ADMINISTRATIVE JURISDICTION: The federal agency having administrative jurisdiction over the interests acquired by the United States by this instrument is the U.S. EPA and any successor departments or agencies of the United States. The state agency having administrative jurisdiction over the interests acquired by the State of Illinois by this instrument is the Illinois EPA and any successor departments or agencies of the State of Illinois.

12. INSPECTION AND ENFORCEMENT: In addition to the access rights set forth in Paragraph 6 and 7 above, the United States, State of Illinois and/or the Grantor may enter the Property from time to time for the purposes of performing inspections, overseeing remedy implementation or enforcing the restrictions set forth in subparagraphs 4.1-4.5 above after permission from or reasonable notice to the owners or the owners' representative or, if applicable, the lessee. The Grantor and the United States and the State of Illinois as Third Party Beneficiaries shall be entitled to enforce the terms of this instrument in a judicial action seeking specific performance or other applicable remedies at law or in equity. The right to so enforce the conditions and restrictions in this instrument are in addition to any other remedies that may be available, including, but not limited to, remedies under CERCLA. Enforcing the terms of this instrument shall be at the discretion of the Grantor, the United States or the State and any forbearance, delay or omission to exercise their rights under this instrument in the event of a breach of any term of this Agreement shall not be deemed a waiver by the Grantor or the United States or the State of such terms, or any other term, or any rights of the Grantor or Grantee or the Third Party Beneficiaries under this instrument. The easement and covenants shall inure to the

benefit of the public in general and the Property and are enforceable by the Grantor, the United States and the State of Illinois.

13. RESERVATION OF DEFENSES: Nothing in this instrument shall be construed to enlarge the jurisdiction of federal courts or to create subject matter jurisdiction to adjudicate any claims against U.S. EPA and the Illinois EPA or otherwise operate as a waiver of any sovereign immunity of the United States and the State of Illinois, and the United States and the State of Illinois expressly reserve all rights and defenses they may have in connection with any action initiated by Grantor pursuant to this instrument.

14. WAIVER OF CERTAIN DEFENSES: Grantee hereby waives any defense of laches, estoppel, or prescription. Grantee reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are compatible with the restrictions and rights granted here.

15. COVENANTS:

a) Grantor hereby covenants to and with the Grantee and its assigns, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, except those noted on Appendix 2 attached hereto. Grantor covenants and warrants that all remedial action necessary for the protection of human health and the environment with respect to any hazardous substances remaining on the property has been taken or will be taken pursuant to the Consent Decree and the First Amended Consent Decree, and any additional remedial action as defined by the Consent Decree and the First Amended Consent Decree found to be necessary after the date of this instrument regarding hazardous substances existing prior to the date of this instrument shall be conducted by Grantor, provided, however, that the foregoing covenant shall not apply in any case in which the presence of hazardous substances on the property is due to the activities of Grantee, its successors, assigns, employees, invitees, or any other person subject to Grantee's control or direction.

b) Grantee covenants for itself, its successors and assigns that it shall include and otherwise make legally binding the above access rights and land use restrictions in all subsequent leases, transfer or conveyance documents relating to the Property subject hereto. Notwithstanding this provision, failure to include these access rights and land use restrictions in subsequent conveyances does not abrogate the status of these restrictions as binding upon the parties, their successors and assigns. The Grantee, for itself, its successors and assigns, covenants that it will not undertake or allow any activity on or use of the Property that would violate the land use restrictions contained herein.

16. NOTICES: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

Johns Manville
717 17th St.
Denver CO 80202
Attn: Legal Department
Environmental

To Grantee

To Third Party Beneficiaries

United States Environmental Protection Agency
Superfund Division
77 W. Jackson Blvd.
Mail Code: SR-6J
Chicago IL 60604-3590

Illinois Environmental Protection Agency
Federal Site Remediation Section
Division of Remediation Management
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

17. GENERAL PROVISIONS:

a) Controlling law: The interpretation and performance of the easements and restrictive covenants shall be governed by the laws of the United States and the State of Illinois, as applicable. The right to enforce the conditions and restrictions in this instrument are in addition to other rights and remedies that may be available, including, but not limited to, administrative and judicial remedies under CERCLA.

b) Liberal construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

c) Severability: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

d) Entire Agreement: This instrument supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

e) No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantee's title in any respect.

f) Successors: The covenants, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of, 1) the parties hereto and their respective personal representatives, heirs, successors, and assigns as well as persons acting under their direction and control; and 2) any subsequent owner, occupants or other person acquiring an interest in the Property and their authorized agents, employees, or persons acting under their direction and control. The covenants, terms, conditions, and restrictions of this instrument shall continue as a servitude running in perpetuity with the Property. The rights of the Grantee under this instrument are freely assignable, subject to the notice provisions hereof. The rights of the U.S. EPA and Illinois EPA are freely assignable to any public entity, subject to the notice provisions hereof.

g) Termination of rights and obligations: The Grantee's rights and obligations under this instrument terminate upon transfer of the Grantee's interest in the Property, except that liability for acts or omissions occurring prior to transfer as well as defenses thereto shall survive transfer.

h) Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

i) Counterparts: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

18. Appendices

Appendix 1	-	Legal description of the Property
Appendix 2	-	Permitted title encumbrances
Appendix 3	-	Land Cover
Appendix 4	-	Asbestos Survey Plot.

Executed this _____ day of _____, 200_.

By: _____

On this ___ day of _____, 200_, before me, the undersigned, a Notary Public in and for the State of Colorado, duly commissioned and sworn, personally appeared _____, known to be the _____ of Johns Manville, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

My Commission Expires: _____.

I, the undersigned Grantee, do hereby accept the herein-described Property, subject to the easements, restrictive covenants, notices, agreements, reservations, conditions, and exceptions hereinabove expressed.

Executed this _____ day of _____, 200_, in _____, State of _____.

[ENTITY]

BY: _____

TITLE: _____

STATE OF _____)
)ss
COUNTY OF _____)

The foregoing Warranty Deed With Reservation of Environmental Protection Easements was acknowledged before me this _____ day of _____, 200_, by _____.

Notary Public

My commission expires:

EXHIBIT 14
to First Amended Consent Decree
United States et al. v. Manville
(N.D. Ill. Civ. Action No. 88C 630)

Prepared by:

Return to:

WARRANTY DEED
WITH RESERVATION OF
ENVIRONMENTAL EASEMENT
and
DECLARATION OF RESTRICTIVE COVENANTS

This _____ day of _____, 20____, the Grantor, JOHNS MANVILLE ("JM"), a Delaware corporation, for and in consideration of _____, conveys and warrants to Grantee, _____, a _____ corporation, the real estate located in the County of Lake, State of Illinois, more particularly described on Appendix 1, which is attached hereto and made a part hereof (the "Property"), subject to the reservation of an Environmental Easement and Declaration of Restrictive Covenants more particularly described as follows:

WITNESSETH:

WHEREAS, on _____, Johns Manville entered the Property in the Illinois Site Remediation Program ("SRP") for the purposes of investigating and remediating the Property;

WHEREAS, pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, the U.S. Environmental Protection Agency ("EPA") placed the Johns-Manville Waukegan Disposal Area on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on September 8, 1983;

WHEREAS, the Property is adjacent to and on the west side of the NPL Site and was part of the former manufacturing plant area owned and operated by Johns Manville;

WHEREAS, in a Record of Decision dated June 30, 1987 (the "ROD"), as modified by an Explanation of Significant Differences dated February 9, 1993, and a Second Explanation of Significant Differences dated September 22, 2000, the U.S. EPA Region 5 Regional Administrator selected a remedial action for the NPL Site that provided, in part, for the placement of groundwater and land use restrictions at and near the NPL Site;

WHEREAS, the remedial action for the NPL Site prohibits any activities that extract, consume, or otherwise use any groundwater from the NPL Site and the Property, and the construction of any well on the Property for purposes other than groundwater monitoring, unless approved pursuant to Paragraph 5 below;

WHEREAS, the remedial action for the NPL Site prohibits interference with the asphalt cap on Site Y, Site Z and the western parking lot of the Property as identified in Appendix 2;

WHEREAS, the Grantor has agreed to impose the groundwater and land use restrictions on the Property, in a Consent Decree entered on or about March 18, 1988, ("Consent Decree") and a First Amended Consent Decree entered on _____, 2003, ("First Amended Consent Decree") in the case of *United States of America and the State of Illinois v. Manville Sales Corporation*, Civil Action No. 88 C 630 (N.D. Ill.).

NOW, THEREFORE:

1.0 AGREEMENT AND RESERVATION: Grantor, on behalf of itself, its successors and assigns, in consideration of the foregoing and the specific agreements hereinafter made by Grantee, for itself and its successors and assigns, to take subject to and abide by all reservations, restrictions, covenants, exceptions, notifications, conditions and agreements hereinafter set forth in this Deed, does hereby reserve a right to restrict the use of the subject land in perpetuity, the right to enforce said restrictions, a right of access to and the right to an environmental easement over the land, all as more particularly hereinafter set forth.

2.0 THIRD PARTY BENEFICIARIES: Grantor on behalf of itself and its successors, transferees and assigns and the Grantee on behalf of itself and its successors, transferees, and assigns hereby agree that the United States, acting by and through U.S. EPA, and its successors and assigns, and the State of Illinois, acting by and through Illinois EPA, and its successors and assigns, shall be Third Party Beneficiaries of all the benefits and rights of the easements, reservations, restrictions, covenants, exceptions, notifications, conditions and agreements herein, and that the Third Party Beneficiaries shall have the right to enforce the easements and restrictions described herein.

3.0 PURPOSE: The purpose of this reservation is to retain in Grantor real property rights, which will run with the land, to facilitate the remediation of past environmental contamination; to protect human health and the environment by reducing the risk of exposure to contaminants; to provide for the long-term protectiveness of the remedial action; and to accomplish these goals in a manner that allows the redevelopment and beneficial reuse of the Property to the extent reasonably possible.

4.0 RESTRICTIONS ON USE: The parties intend that the restrictions and covenants that follow apply to the use of the Property, run with the land for the benefit of the Grantor and the Third Party Beneficiaries, and are binding upon:

- a) the Grantee and its successors, transferees, and assigns or persons acting under their direction and control; and
- b) any subsequent owner, occupants or other person acquiring an interest in the Property and their authorized agents, employees, or persons acting under their direction and control.

4.1 Ground water uses: No activities shall be conducted on the Property that extract, consume, or otherwise use any groundwater from the Property, unless approved by U.S. EPA with State of Illinois concurrence nor shall any wells be constructed on the Property for purposes other than ground water monitoring, unless approved by U.S. EPA with State of Illinois concurrence.

4.2 Restrictions applicable to Site Y, Site Z and the western parking lot portion of the Property:

No action shall be taken to drill or intrude into, penetrate or otherwise disturb the asphalt cover on Site Y, Site Z and the western parking lot portion of the Property as identified in Appendix 2.

4.3 Effective date of restrictions: The foregoing restrictions on use of the Property are subject to applicable statutes, ordinances, rules and regulations, and take effect upon the date of execution of this document and remain in effect until both U.S. EPA and the State of Illinois issue a written determination to either modify or terminate the conditions and restrictions pursuant to Paragraph 5 below.

5. MODIFICATION OF RESTRICTIONS: The restrictive covenants in the preceding subparagraph shall continue unless and until U.S. EPA, with the concurrence of Illinois EPA, approves the modification or rescission of the restrictive covenants. U.S. EPA, with the concurrence of Illinois EPA, may modify or terminate, in whole or in part, the restrictions set forth in paragraph 4 in writing, as authorized by law. The owner of the Property may seek to modify or terminate, in whole or in part, the restrictions set forth in paragraph 4 by submitting to U.S. EPA, the State of Illinois and Johns Manville, a written application that

identifies each such restriction to be terminated or modified, describes the terms of each proposed modification, and any proposed revisions to the environmental easement/restrictive covenants in this Deed. Each application for termination or modification of any restriction set forth in paragraphs 4 shall include a demonstration by the owner of the Property that the requested termination or modification will not interfere with, impair or reduce:

- a) the effectiveness of any remedial measures undertaken pursuant to the Consent Decree and First Amended Consent Decree;
- b) the long term protectiveness of the Remedial Action; or
- c) protection of human health and the environment.

If U.S. EPA, with the concurrence of Illinois EPA, makes a determination that an application satisfies the requirements of this paragraph, including the criteria specified in (a) through (c), above, U.S. EPA will notify the owner of the Property in writing. If U.S. EPA does not respond in writing within 90 days to an application to modify or terminate any restrictions, U.S. EPA shall be deemed to have denied owner's application. Any modification of these restrictive covenants shall be recorded with Recorder of Deeds, Lake County, Illinois. Johns Manville reserves its right to use the dispute resolution procedures in Section XII of the First Amended Consent Decree concerning U.S. EPA's determination on an owner's application.

6. MONITORING WELLS: Grantor reserves access to all well equipment and improvements, and exclusive use of the existing monitoring wells/piezometers located on the Property (as identified below) together with access across the property as required for the purpose of maintaining, improving, monitoring and/or removing the wells/piezometers.

[Location of wells here]

7. ENVIRONMENTAL EASEMENT: Reserving to the Grantor, for its use, and for the use of the Third Party Beneficiaries, an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes listed below.

- a) Implementing response actions in any CERCLA decision document affecting the Property or any associated work plans;
- b) Verifying any data or information submitted to U.S. EPA and Illinois EPA;
- c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of the First Amended Consent Decree;
- d) Monitoring response actions on the Property and conducting investigations relating to contamination on or near the Property, including, without limitation, sampling of air, water, sediments, soils, and obtaining split or duplicate samples;
- e) Conducting periodic reviews of the remedial action, including, but not limited to, reviews required by applicable statutes and/or regulations and by CERCLA;

- f) Implementing additional or new response actions if the U.S. EPA and/or Illinois EPA, pursuant to authority under applicable law, determine that such actions are necessary.

8. NO LIMITATION OF RIGHTS OR AUTHORITIES: Nothing in this document shall limit or otherwise affect U.S. EPA's or the Illinois EPA's or the Illinois Attorney General's rights of entry and access or U.S. EPA's or the Illinois EPA's or the Illinois Attorney General's authority to take response actions under CERCLA, the NCP, or other federal or state law.

9. NO PUBLIC ACCESS AND USE: No right of access or use by the general public to any portion of the Property is intended or conveyed by this instrument.

10. ADMINISTRATIVE JURISDICTION: The federal agency having administrative jurisdiction over the interests acquired by the United States by this instrument is the U.S. EPA and any successor departments or agencies of the United States. The state agency having administrative jurisdiction over the interests acquired by the State of Illinois by this instrument is the Illinois EPA and any successor departments or agencies of the State of Illinois.

11. INSPECTION AND ENFORCEMENT: In addition to the access rights set forth in Paragraph 6 and 7 above, the United States, State of Illinois and/or the Grantor may enter the Property from time to time for the purposes of performing inspections, overseeing remedy implementation or enforcing the restrictions set forth in subparagraphs 4.1-4.2 above after permission from or reasonable notice to the owners or the owners' representative or, if applicable, the lessee. The Grantor and the United States and the State of Illinois as Third Party Beneficiaries shall be entitled to enforce the terms of this instrument in a judicial action seeking specific performance or other applicable remedies at law or in equity. The right to so enforce the conditions and restrictions in this instrument are in addition to any other remedies that may be available, including, but not limited to, remedies under CERCLA. Enforcing the terms of this instrument shall be at the discretion of the Grantor, the United States or the State and any forbearance, delay or omission to exercise their rights under this instrument in the event of a breach of any term of this Agreement shall not be deemed a waiver by the Grantor or the United States or the State of such terms, or any other term, or any rights of the Grantor or Grantee or the Third Party Beneficiaries under this instrument. The easement and covenants shall inure to the benefit of the public in general and the Property and are enforceable by the Grantor, the United States and the State of Illinois.

12. RESERVATION OF DEFENSES: Nothing in this instrument shall be construed to enlarge the jurisdiction of federal courts or to create subject matter jurisdiction to adjudicate any claims against U.S. EPA and the Illinois EPA or otherwise operate as a waiver of any sovereign immunity of the United States and the State of Illinois, and the United States and the State of Illinois expressly reserve all rights and defenses they may have in connection with any action initiated by Grantor pursuant to this instrument.

13. WAIVER OF CERTAIN DEFENSES: Grantee hereby waives any defense of laches, estoppel, or prescription. Grantee reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are compatible with the restrictions and rights granted here.

14. COVENANTS:

a) Grantor hereby covenants to and with the Grantee and its assigns, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, except those noted on Appendix 3 attached hereto.

b) Grantee covenants for itself, its successors and assigns that it shall include and otherwise make legally binding the above access rights and groundwater use restrictions in all subsequent leases, transfer or conveyance documents relating to the Property subject hereto. Notwithstanding this provision, failure to include these access rights and groundwater use restrictions in subsequent conveyances does not abrogate the status of these restrictions as binding upon the parties, their successors and assigns. The Grantee, for itself, its successors and assigns, covenants that it will not undertake or allow any activity on or use of the Property that would violate the groundwater use restrictions contained herein.

15. NOTICES: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

Johns Manville
717 17th St.
Denver CO 80202
Attn: Legal Department
Environmental

To Grantee

To Third Party Beneficiaries

United States Environmental Protection Agency
Superfund Division
77 W. Jackson Blvd.
Mail Code: SR-6J
Chicago IL 60604-3590

Illinois Environmental Protection Agency
Federal Site Remediation Section
Division of Remediation Management
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

16. GENERAL PROVISIONS:

- a) Controlling law: The interpretation and performance of the easements and restrictive covenants shall be governed by the laws of the United States and the State of Illinois, as applicable. The right to enforce the conditions and restrictions in this instrument are in addition to other rights and remedies that may be available, including, but not limited to, administrative and judicial remedies under CERCLA.
- b) Liberal construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.
- c) Severability: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.
- d) Entire Agreement: This instrument supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.
- e) No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantee's title in any respect.
- f) Successors: The covenants, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of, 1) the parties hereto and their respective personal representatives, heirs, successors, and assigns as well as persons acting under their direction and control; and 2) any subsequent owner, occupants or other person acquiring an interest in the Property and their authorized agents, employees, or persons acting under their direction and control. The covenants, terms, conditions, and restrictions of this instrument shall continue as a servitude running in perpetuity with the Property. The rights of the Grantee under this instrument are freely assignable, subject to the notice provisions hereof. The rights of the U.S. EPA and Illinois EPA are freely assignable to any public entity, subject to the notice provisions hereof.

g) Termination of rights and obligations: The Grantee's rights and obligations under this instrument terminate upon transfer of the Grantee's interest in the Property, except that liability for acts or omissions occurring prior to transfer as well as defenses thereto shall survive transfer.

h) Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

i) Counterparts: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

17. Appendices

- | | | |
|------------|---|-----------------------------------|
| Appendix 1 | - | Legal description of the Property |
| Appendix 2 | - | Asphalt Cover |
| Appendix 3 | - | Permitted Encumbrances |

IN WITNESS WHEREOF, Grantor has caused this Warranty Deed With Reservation of Environmental Easement and Restrictive Covenants to be signed in its name.

Executed this _____ day of _____, 200_.

JOHNS MANVILLE

By: _____

STATE OF COLORADO)
) ss
CITY AND COUNTY OF DENVER)

On this __ day of ____, 200__, before me, the undersigned, a Notary Public in and for the State of Colorado, duly commissioned and sworn, personally appeared ____, known to be the ____ of Johns Manville, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.

Notary Public in and for the
State of Colorado

My Commission Expires: _____

I, the undersigned Grantee, do hereby accept the herein-described Property, subject to the easements, restrictive covenants, notices, agreements, reservations, conditions, and exceptions hereinabove expressed.

Executed this _____ day of _____, 200_, in _____, State of _____.

[ENTITY]

BY: _____

TITLE: _____

STATE OF _____)
)ss
COUNTY OF _____)

The foregoing Warranty Deed With Reservation of Environmental Protection Easements was acknowledged before me this _____ day of _____, 200_, by _____.

Notary Public

My commission expires: